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29 MAY 1914

# Proposed Charter

FOR THE

## City of Olean

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Proposed by the Citizens' Charter Committee

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### Election Day

### Tuesday, June 30, 1914

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REPRINTED

for the

CHAMBER OF COMMERCE

City Building

OLEAN, NEW YORK

## TABLE OF CONTENTS

	Section
Powers of the City.....	1— 3
Boundaries .....	4— 5
Elective Officers other than Commissioners....	10— 32
Form of Government.....	40— 41
Municipal Elections .....	45— 70
Mayor and Commissioners.....	75— 81
Meetings of the Commission.....	85— 88
City Clerk .....	95— 99
Ordinances .....	105—112
Initiative and Referendum .....	120—128
Franchises and Public Utilities.....	145—151
Officers, General Provisions.....	155—160
Civil Service.....	165
City Manager .....	170—172
Administrative Departments .....	175—177
Department of Law .....	178—185
Department of Public Service.....	186—192
Department of Public Welfare.....	193—198
Department of Public Safety.....	199—205
Department of Finance.....	206—223
General Financial Provisions .....	230—245
Appropriations .....	246—254
Assessments and Taxation .....	260—289
Bonds and Certificates of Indebtedness.....	290—298
Streets and Highways .....	305—320
Special Assessments .....	325—332
Dedications .....	340—344
Pavements and Sewers .....	350—378
Sidewalks .....	379—385
Sprinkling .....	386—392
Miscellaneous Provisions .....	400—424

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**PROPOSED CHARTER**  
**PROVIDING A**  
**COMMISSION-MANAGER**  
**FORM OF GOVERNMENT**  
**FOR THE**  
**CITY OF OLEAN**

\* \* \* \* \*  
\*  
\* Passed unanimously by the Senate and \*  
\* Assembly of the State of New York. \*  
\* Passed unanimously by the Mayor and \*  
\* Common Council of the City of Olean. \*  
\* Signed by the Governor of the State of New \*  
\* York. \*  
\* \* \* \* \*

To the Voters of Olean, New York:

The proposed charter establishing a Commission-Manager form of government for the City of Olean, which is given in full herewith as it is to be submitted to the voters on June 30, 1914, was prepared by the Citizen's Charter Committee. This Committee is composed of twenty-one citizens appointed by the Chamber of Commerce and five Councilmen appointed by the Mayor.

In the preparation of the charter the Committee has sought information and suggestions from many sources. Charters of other cities, providing for the Commission and Commission-Manager form of government, have been carefully examined and considered. The Committee has incorporated in this charter all the provisions which it believes will furnish the best charter for the City. The proposed charter has been endorsed by the Citizen's Charter Committee and by an Advisory Charter Committee of three hundred and fifty citizens at a public meeting in the court room January 30.

A step in advance of the straight commission governed cities has been taken and a remedy provided for the generally acknowledged defects of such forms. Provision

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Charter of the City of Olean, N.Y.

has been made for a chief administrative officer called "The City Manager," whose duty it shall be to supervise and control the conduct and affairs of all officers and employees of the City and to manage the affairs of the City in an efficient and economical manner. This centralization of administrative authority will produce business-like methods in city government and fix responsibility for official action that will result in great benefit. To enable the voters to obtain a comprehensive view of the more important provisions of the proposed charter the following brief outline is submitted:

### **The Commission**

The legislative powers are delegated to a commission of five citizens elected at large. At the first election three commissioners will be elected for the long term and two for the short term and thereafter their successors shall be elected for two years. This insures a commission at all times familiar with the city government.

### **The City Manager**

A competent, experienced, trained and capable person selected by the Commission on account of his peculiar fitness and adaptability to manage the affairs of the City. The City Manager may or may not be a resident of Olean.

### **Nominations and Elections.**

First—Party politics are eliminated. No party designations will appear on the ballot.

Second—Ward limits are abolished. The City is considered as a unit, insuring to all parts of the City equal representation and consideration.

Third—The short ballot principle has been adopted.

Fourth—Any citizen may be nominated as a candidate for commissioner by securing a petition signed by five per cent of the voters, which means from one hundred and fifty, to two hundred signers.

### **Preferential System of Voting.**

Under the preferential system of voting the wishes of the majority of the voters are obtained. First, second and third choices may be expressed. The ballot is arranged like the ordinary Australian ballot except that instead of

one column for X marks there are three provided, headed "first choice," "second choice" and "third choice," respectively. The voter places an X mark in the first column after the name of his first choice for the office, in the second column after the name of his second choice, and in the third column after the name of his third choice. If any candidate polls a majority of all the votes in the first column he is elected. Failing that, the first and second choice votes are added together. The highest candidate now wins if he has a majority. If no man can command a majority of the firsts and seconds, the choices in the third column are added in. The high man then wins. This system of voting, which eliminates the necessity of primaries, has met with unusual success in every city where it has been used. The people are pleased with it. The system is easily understood and no confusion has resulted from its use in municipal elections.

### Initiative and Referendum

Provision has been made whereby the people may initiate legislation and compel the submission to them of any legislation passed or refused to be passed by the Commission. This leaves the control of all legislation to the people.

### Administrative Departments

The various functions of the government are subdivided into five departments, namely, department of law, department of public service, department of public welfare, department of public safety and department of finance. The consolidation of the business of the city into these departments makes possible the accomplishment of more business with a smaller working force. All these departments are under the control and jurisdiction of the City Manager. Departments of law, public service and public welfare will each be in charge of a director selected by the City Manager. The City Manager shall act as the director of the department of public safety.

### Department of Finance.

The Commission shall appoint a City Clerk, an Auditor and a Treasurer. All the financial affairs of the City are consolidated in this one department. Provision has been made for the institution of the best and most modern

business methods of accounting which will prevent the waste of public funds and insure an accurate account of all municipal transactions. Under this system there will be a triple check on all moneys received and paid out by the city in contrast to the present system which provides no check at all.

### **Purchasing Agent.**

All purchases made by the City are made by an Agent appointed for that purpose who shall purchase supplies after competitive bidding. This will provide an economical and efficient system for the purchase of supplies.

### **Public Welfare.**

A department has been created for the purpose of developing and caring for the welfare of the people. It is believed the welfare of the people is as important as the care of their property. Public health, parks and playgrounds, charities and corrections, and recreation are gathered together in this department. The director of the public welfare department shall perform the duties of the overseer of the poor.

### **Franchises**

No exclusive grants are permitted. All franchises shall be subject to a referendum by the people the same as other ordinances.

### **A Few of the Many Reasons Why Olean Should Adopt the Proposed Charter**

1. It establishes a simple, direct and business-like form of government.
2. It makes elective officers responsive to public opinion by means of the initiative and referendum.
3. It provides for a preferential system of voting and a non-partisan ballot.
4. It provides that any citizen may be a candidate for commissioner without asking the consent of any political boss.
5. It affords to capable men the opportunity to hold office during good behavior, thus tending to the development of trained public servants.

6. It separates the Legislative functions from the Administrative.
7. It provides an accounting system that will show where every dollar goes and what we get for it.
8. It creates a purchasing department which will effect great saving in the purchase of supplies.
9. It makes government operation as efficient as private management.
10. It breaks up political machines.
11. It elects men to represent the WHOLE city.
12. It makes room for men of Vision in city affairs.
13. It makes possible the development of a definite constructive policy of betterment and beautification.
14. Its adoption will place Olean in the front rank of progress. It is the most liberal charter ever granted by a New York State Legislature.
15. It recognizes the people as the sole source of governmental power and impresses upon each member of the community the duty and responsibility of actively interesting himself in the affairs of his City.

The members of the Citizens' Charter Committee adopted this charter by a unanimous vote believing that if it is adopted by the people it will provide for Olean an adequate, economical and efficient form of government and one that will be responsive to every demand of the people. The adoption of this charter by the people will secure for the City a form of government devised to suit its particular needs.

The people of Olean must choose between the present form of government and the form as expressed in this charter.

## CITIZENS' CHARTER COMMITTEE.

# THE CHARTER OF THE CITY OF OLEAN

## ARTICLE I.

### POWERS OF THE CITY.

Section 1. The citizens of this state who may, from time to time reside within the territorial limits of the city of Olean, as specified in this act, are hereby created a municipal corporation in perpetuity to be known as the city of Olean. It may use a corporate seal; may sue and be sued; may acquire property in fee simple, or lesser interest or estate, by condemnation or by purchase, gift, devise, lease or lease with the privilege to purchase, for any municipal purpose; may sell, lease, hold, manage and control such property, and make any and all rules and regulations by ordinance or resolution which may be required to carry out fully all the provisions of any conveyance, deed or will, in relation to any gift or bequest, or the provisions of any lease by which it may acquire property; may acquire by purchase or condemnation, construct, own, lease and operate and regulate public utilities; may assess, levy and collect taxes for general and special purposes on all the subjects or objects which the city may lawfully tax; may appropriate the money of the city for all lawful purposes; may create, provide for, construct, regulate and maintain all things of the nature of public works and improvements and prescribe the width and grade of streets and sidewalks and provide for the numbering of the lots or buildings adjoining the streets; may levy and collect assessments for local improvements; may license and regulate persons, corporations and associations engaged in any business, occupation, profession or trade which it may be necessary or proper to license or regulate, to promote the health, morals, safety or general welfare of its inhabitants; may define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the city, and all nuisances and causes thereof; may regulate the construction, height, and material used in all buildings and the maintenance and occupancy thereof; and establish fire limits and require the erection of fire escapes; may regulate and license the construction of bill boards, signs and similar structures; may regulate and control the use, for whatever purposes of the streets and other public places and require and compel railroad companies to provide flagmen or to erect and maintain gates at street crossings at grade and to suitably protect street crossings other than at grade and to regulate the obstruction of the streets by railway locomotives and cars and their running and rate of speed; may compel the owner or occupants of any premises adjoining any street to construct, maintain and repair sidewalks in front of said prem-

ises, including the space between the outside limits of the street and the curb and to erect barriers or safeguards at dangerous places and to remove snow and ice from such sidewalks and barriers and in case of the failure of such owner or occupant to remove such snow and ice, to assess the cost and expense thereof against such property; may create, establish, abolish and organize offices and fix the salaries and compensations of all officers and employees; may make and enforce local police, sanitary and other regulations; may regulate and license the running at large of dogs and provide for impounding and killing unlicensed dogs; and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the city, and for the performance of the functions thereof. The city shall have all powers that now are, or hereafter may be granted to municipalities by the constitution or laws of the state of New York; and all such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed in this act, or when not prescribed herein, in such manner as shall be provided by ordinance or resolution of the commission.

§ 2. The enumeration of particular powers in this act shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the city shall have, and may exercise, all other powers which, under the constitution and laws of the state of New York, it would be competent for this act specifically to enumerate.

§ 3. All of the property, real and personal, rights, powers, privileges and contracts belonging to or vested in the city of Olean as organized and incorporated, immediately prior to the time when this act takes effect and all the duties, contracts, obligations and liabilities of said city of Olean shall belong to and are hereby transferred to, vested in and imposed upon the city of Olean as organized by this act, including all of the property, rights, powers, privileges and contracts vested in said city and all the duties, obligations and contracts which were imposed upon said city by virtue of the provisions of chapter three hundred and sixty-nine of the laws of one thousand nine hundred and eight.

### **Boundaries.**

§ 4. The territorial limits of the city of Olean shall be as follows: All that part of the town of Olean in the county of Cattaraugus bounded as follows: Commencing at the intersection of the west line of town number one in the fourth range of townships of the Holland Land Company's survey with the south bank of the Allegheny river at low water mark; thence easterly along the south bank of said river to the point where said south bank of said river intersects the west line of lot fifteen, section seven, town one, range four of the Holland Land Company's survey; thence south on the west line of lot fifteen in section seven, town one, range four, aforesaid, to the southwest corner of said lot fifteen; thence east along the south line of said lot fifteen and the south line of lots thirteen and fourteen in the same section, town and range to the southeast

corner of said lot thirteen; thence north on the east line of said lot thirteen to the south bank of said river at low water mark; thence east along the low water mark on the south bank of said river to the point where the east line of lot four in section four, town one, range four aforesaid, intersects said south bank of said river; thence north along the east lines of lots four and ten in said section four to a point in said east line of lot ten, two hundred feet north of the north line of Park avenue; thence west on a line parallel with the north line of Park avenue two hundred feet distant at right angles north therefrom, to the east line of lot nine in said section four; thence north along the east line of lot nine in said section four to the north line of said town one; thence west along the north line of said town one, range four aforesaid to the southeast corner of lot one, section five, town two, range four of the Holland Land Company's survey; thence north on the west line of lots one and three in said section five to a point in the east line of said lot three, one hundred and fifty feet north of the north line of the Windfall road; thence west on a line parallel with said north line of said Windfall road and one hundred and fifty feet distant at right angles north therefrom to the east bank of the Olean creek; thence northerly along the east bank of said Olean creek to a point in the east bank of the Olean creek distant one thousand and fifty feet north at right angles from the north line of lot seven in said section five, town two, range four; thence west on a line parallel with said north line of lot eight and one thousand and fifty feet distant at right angles north therefrom to the west right of way line of the Western New York and Pennsylvania Railway Company; thence southwesterly on a straight line crossing diagonally portions of lots ten and eight in section five and portions of lots one, two, three and five in section nine to a point in said lot five at the intersection of the center line of Buffalo street with the continuation northerly of the west line of lot thirteen in section eleven, town one, range four; thence south along said continuation of the west line of lot thirteen and the west line of said lot thirteen in section eleven, town one, range four to the south line of the lands of the Western New York and Pennsylvania Railway Company on lots twelve and thirteen in said section eleven; thence westerly along the south line of said railway company's land to the west line of town one, range four aforesaid; thence south along the west line of said town one to the place of beginning.

### Ward Boundaries.

§ 5. The said city shall be divided into eleven wards as follows:

The first ward shall comprise all that part of said city bounded east by the center line of Union street; north by the center line of State street; west by the center line of Sixth street; and south by the south bank of the Allegheny river.

The second ward shall comprise all that part of said city bounded on the east by the west bank of the west channel of Olean creek; north by the center line of State street; west by the center line of

Union street and south by the south bank of the Allegheny river, also that part of said city lying south of the Allegheny river

The third ward shall comprise all that part of said city bounded east by the west bank of the west channel of Olean creek; north by the main track of the Buffalo division of the Pennsylvania railroad; west by the center line of Union street and south by the center line of State street.

The fourth ward shall comprise all that part of said city bounded east by the center line of Union street; north by the center line of Sullivan street; west by the center line of Seventh street and south by the center line of State street.

The fifth ward shall comprise all that part of said city bounded east by the center line of Union street, north by the north line of town one, range four of the Holland Land Company's survey; west by the center line of Seventh street and south by the center line of Sullivan street.

The sixth ward shall comprise all that part of said city bounded east by the center line of South Sixth street and a continuation thereof south to the south bank of the Allegheny river and the center line of North Seventh street; north by the center line of Washington street and the center line of State street between South Sixth street and North Seventh street; west by the center line of Eleventh street and a continuation of the center line of South Eleventh street to the south bank of the Allegheny river; south by the south bank of the Allegheny river.

The seventh ward shall comprise all that part of said city bounded east by the center line of Eleventh street and a continuation of the center line of South Eleventh street to the south bank of the Allegheny river; north by the center line of Washington street and a continuation thereof to the west boundary of said city and the center line of State street between North Eleventh and South Eleventh streets; west and south by the west and south bounds of said city, respectively.

The eighth ward shall comprise all that part of said city bounded east by the center line of Seventh street; north by the north line of town one, range four of the Holland Land Company's survey; west by the west bounds of said city; and south by the center line of Washington street, and a continuation thereof to west bounds of said city.

The ninth ward shall comprise all that part of said city bounded east by the west bank of Olean creek and a continuation of the center line of Union street north to the Olean creek; north and west by the north and west bounds of said city; and south by the north line of town one, range four of the Holland Land Company's survey.

The tenth ward shall comprise all that part of said city bounded east and north by the east and north bounds of said city; west by the west bank of the Olean creek, a continuation of the center line of Union street north to the Olean creek and the center line of Union street; and south by the main track of the Buffalo division of the Pennsylvania Railroad Company and the center line

of Division street continued west to the west bank of Olean creek.

The eleventh ward shall comprise all that part of said city bounded east by the east bounds of said city; north by the center line of Division street continued to intersect the east bounds of said city and the west bank of Olean creek; west and south by the west bank of Olean creek and the south bank of the Allegheny river.

## ARTICLE II.

### ELECTIVE OFFICERS OTHER THAN COMMISSIONERS

§ 10. There shall be elected in and for said city a police justice, four justices of the peace and four constables who shall be elected by the city at large, and eleven supervisors, one of whom shall be elected from each of the respective wards of said city. All of said officers shall be elected at the same time that the general election is held in the state of New York and shall be nominated and the votes for such officers canvassed in the manner provided by the election law.

§ 11. No person shall be elected to the office of police justice, justice of the peace, constable or supervisor unless he be a resident and elector of said city and in the case of supervisor, unless he be also a resident of the ward for which he is elected.

§ 12. The term of office of the police justice shall be three years; of the justices of the peace and constables, four years; of the supervisors, two years.

§ 13. Any vacancy occurring in the office of the police justice, justices of the peace, constable or supervisor shall be filled by appointment by the commission until the next general election when the residue, if any, of such term shall be filled by election.

§ 14. The police justice, justices of the peace and constables shall each respectively, before entering upon the duties of their respective offices, give the bond provided by law which shall be approved as to form, amount and sufficiency of the sureties and manner of execution by the commission.

§ 15. The police justice, justices of the peace, constables and supervisors shall, before entering upon the duties of their respective offices, take the constitutional oath of office and file the same with the city clerk. The police justice and justices of the peace shall each also file a like oath with the clerk of the county of Cattaraugus. Any person elected to either of said offices who shall neglect for fifteen days after his election to take and file the constitutional oath of office or give the bond required by law or under the provisions of this act, shall be deemed to have declined such office and the same may be filled as in case of vacancy. Any of the aforesaid offices shall also become vacant whenever the incumbent shall have been removed from office, or resign, or shall have died in office, or shall cease to be a resident of the city, or shall have died after his election and before his term of office shall have commenced or in case at any election no choice shall have been made by reason of a tie vote. Every such officer shall hold his office until his successor shall have been elected or appointed unless such office has become

vacant by reason of removal from office, resignation, or by reason of such officer ceasing to be a resident of the city or in the case of supervisors of their respective wards, in which event such office shall be absolutely vacant and the incumbent thereafter disqualified from performing any of the duties of his office.

§ 16. The resignation of any of said officers must be made in writing, acknowledged before an officer authorized to take the acknowledgment of deeds and filed with the city clerk.

§ 17. The police justice, justice of the peace, constables and supervisors of said city in office at the time this act takes effect shall continue to hold such offices during the respective terms for which they were elected.

In case this act is not disapproved by the electors of said city as hereinafter provided, there shall be nominated and elected at the general election held in the year one thousand nine hundred and fourteen, in the manner provided by the election law, seven supervisors in addition to the supervisors of said city in office at the time this act becomes a law; one of whom shall be elected by the electors of the second and third wards; two by the electors of the first, sixth and seventh wards; two by the electors of the fourth, fifth and eighth wards and two by the electors of the ninth, tenth and eleventh wards. Said supervisors shall hold office until the expiration of the terms of the supervisors in office at the time this act becomes a law and thereafter, one supervisor shall be elected from each of the respective wards of said city as hereinbefore provided.

A vacancy occurring in the office of supervisor after this act becomes a law and before it takes effect shall be filled in the manner provided by the charter of said city before this act became a law. A vacancy occurring in such office after this act takes effect shall be filled in the manner provided in this act.

§ 18. The police justice, justices of the peace, constables and supervisors may be removed from office in the same manner as provided for the removal of like officers in villages and towns.

### Supervisors.

§19. The supervisors shall have the same powers and discharge the same duties as supervisors of towns except as otherwise provided in this act, and shall be members of the board of supervisors of Cattaraugus county. They shall receive the same compensation allowed by law to supervisors of towns. Each of the respective wards of said city shall be a separate town of Cattarraugus county for the purpose of selecting, drawing and procuring the attendance of trial jurors. The assessors, the city clerk and the supervisor elected from each of the respective wards shall perform in such respective wards, the duties of supervisor, town clerk and assessors of a town as prescribed by law for the purpose of selecting, drawing and procuring the attendance of such jurors. A duplicate of each list of jurors selected in said respective wards shall be filed in the office of the city clerk and the combined lists for all of said wards

shall be the jury list of said city and shall be furnished to the police justice and justices of the peace and used by them in the same manner as provided by law for jury lists in towns.

### Police Justice.

§ 20. The territorial jurisdiction of the police justice shall be co-extensive with the boundaries of the city, but his mandate may, upon being properly endorsed, be executed at any place within the state. He shall have the same power and jurisdiction for the arrest and examination of offenders, of summary trials and convictions and of special proceedings of a criminal nature, except proceedings in bastardy, in all cases arising in said city, either under the common law, the statutes of the state including this act, or the ordinances of the city as is conferred by law upon justices of the peace of towns, to the exclusion of all magistrates, not officers of a court of record except as otherwise provided by this act. He shall have jurisdiction to hear, try and determine all charges of misdemeanors alleged to have been committed in said city, except the charge of conspiracy. Such trials shall be conducted in like manner as trials in courts of special sessions, and such criminal actions may be removed from the jurisdiction of the police justice in the manner now provided by law for the removal of actions from the court of special sessions. Such court shall be known as the police court.

§ 21. Appeals from decisions of the police court of said city may be taken in like manner as is provided by law for appeals from the courts of justices of the peace and from courts of special sessions.

When a defendant shall be convicted by or before said police justice for any offense, jurisdiction of which is not conferred upon courts of special session by law, such police justice shall render such judgment, and inflict upon him such punishment as a court of record may render and inflict in a like case as provided by law.

§ 22. The commission shall designate one of the justices of the peace of said city to act in the absence or inability of the police justice to be known as the acting police justice, who shall perform the duties, possess the powers and jurisdiction and receive the salary of such police justice during such absence or inability and such salary shall be deducted from the salary of the police justice.

§ 23. Except as otherwise provided by law, the police justice may commit any person convicted by or before him of a criminal offense, to imprisonment in the Erie county penitentiary at Buffalo, and all fees of officers for executing such commitment shall be chargeable to the city of Olean. The police justice shall deliver all commitments to the chief of police.

§ 24. Said police justice shall demand, receive and impose in all actions and proceedings before him, and for all services rendered by him, the costs, fees and fines which may be by law demanded, received or imposed by courts of special sessions and by justices of the peace in like actions and proceedings and for like services, and all such costs, fees and fines as well as all other moneys

received by him as such police justice, shall belong to the city of Olean. He shall on the first Monday of every month render to the auditor an itemized account of all such moneys received by him during the previous month and pay the same to the treasurer.

He shall enter in a book to be furnished by the city, a record of the several complaints made before him, upon which a warrant or other process for the arrest of any person accused shall be granted, and of all cases in which the offenders or person accused shall be brought before him without process, which record shall contain, under the proper date, the names of the parties, a brief statement of the nature of the offense charged, the name of the officer arraigning the accused, the action of the police justice thereon and an accurate account of all fines, penalties and costs imposed and collected by him, or which may be ordered to be paid by any offender. Such books shall be open for inspection to the public at all reasonable hours, and the contents thereof be proved in any action brought in any court, in like manner and with the same effect as the docket kept by a justice of the peace in civil actions. He shall keep account of all services which, if performed by a justice of the peace, would be chargeable to the county of Cattaraugus, and shall present annually to the board of supervisors of said county an account of such services in form and within the time required to have the same audited by said board of supervisors, and the same shall be audited by it to the city of Olean, levied and collected in the same manner as other county charges, and paid to the police justice who shall forthwith deposit the same as hereinbefore provided. For any neglect of such police justice to make said reports or pay over said moneys, as required by this section, the commission may remove him from office.

§ 25. In addition to the powers hereby conferred upon said police justice he shall, on filing with the clerk of Cattaraugus county a certificate of his election and of the filing of his oath of office signed by the city clerk under the seal of the city, have power and authority to administer oaths and take affidavits and to take acknowledgments and proofs of deeds and other instruments to be recorded in said county and shall be entitled to charge and receive the fees therefor provided by law except from persons acting for or in the business of said city.

§ 26. Said police justice shall keep his office in the central part of the city, at a place to be approved by the commission. It shall be his duty to attend at his office at all reasonable hours of the day and to hear all matters within his jurisdiction.

§ 27. Said police justice shall not receive for his own benefit any fee for services under this act, but shall receive an annual salary to be fixed by the commission and paid monthly.

§ 28. He shall not hold any other city office while holding the office of police justice.

§ 29. Said police justice shall have jurisdiction of all actions and proceedings brought to recover any fine, penalty or forfeiture for the violation of any of the provisions of this act or of any ordinance, by-law or resolution duly enacted by the commission

in accordance with the provisions hereof, but shall not have jurisdiction of any other civil action or proceeding.

§ 30. When judgment shall have been recovered in favor of the city for any fine, penalty or forfeiture, execution thereon may be issued against the person as well as against the property of the defendant in the manner and form prescribed by law for such execution.

### Justices of the Peace.

§ 31. The justices of the peace of said city shall have and exercise the powers, authority and jurisdiction, discharge the duties and be entitled to the fees and compensation of justices of the peace for the several towns of Cattaraugus county, except as modified by this act; and all laws applicable to justices of the peace of towns, and courts held by them, and appeals therefrom and their official acts, duties and powers shall apply to the justices of the peace of said city, to the courts held by them, and appeals therefrom and their official acts, duties and powers, except as modified by this act.

### Constables.

§ 32. The powers, duties, compensation, liabilities and fees of the constables of said city shall be the same as those provided for constables of towns; and all provisions of law applicable to town constables and their sureties shall apply to the constables of said city and their sureties respectively, except so far as may be inconsistent with this act.

## ARTICLE III.

### FORM OF GOVERNMENT.

#### Commission-Manager Government. City Manager.

§ 40. General description. The form of government provided in this act shall be known as the "Commission-Manager Government," and shall consist of a commission of five citizens, a manager and department officers as provided in this act. The commission shall be elected at large in manner hereinafter provided. The commission shall constitute the governing body with powers as hereinafter provided to pass ordinances, adopt resolutions and appoint a chief administrative officer to be known as the "City manager," and exercise all the powers conferred upon said city except as otherwise provided in this act.

#### Mayor.

§ 41. The commission shall choose one of its number as mayor in the manner hereinafter provided and the mayor and other commissioners shall have and exercise all of the powers and perform all of the duties imposed upon the mayor and common council of cities

by the constitution and general laws of the state of New York not otherwise provided for in this act.

## ARTICLE IV. MUNICIPAL ELECTIONS.

### Time.

§ 45. A regular municipal election shall be held on the first Tuesday after the first Monday of February in the year nineteen hundred and sixteen and in each year thereafter.

### Qualifications.

§ 46. The qualifications of an elector at all municipal elections except upon questions submitted to taxpayers, shall be the same as those provided by the election law.

### Inspectors.

§ 47. The inspectors of election appointed for the several election districts of said city shall meet on the third Friday and on the third Saturday preceding each regular and referendum election and revise the register of electors for their respective election districts as provided by the election law and such registers as so revised shall be the registers for such election.

### Place.

§ 48. All municipal elections shall be held at the places in the respective election districts of said city designated for holding general elections but this section shall not apply to any question submitted to taxpayers as provided in this act.

### Nominations.

§ 49. Nominations of candidates for commissioners shall be made by petition signed by registered electors who voted at the last regular or recall municipal election equivalent in number to five per centum of the number thereof, but not more than two hundred in any case. No such petition shall nominate more candidates than the number of commissioners to be elected but may nominate a less number. Each such petition shall be made and filed in the manner prescribed by the election law for independent certificates of nominations except that no emblem or political name distinguishing the candidate or candidates nominated by such petition shall be stated in such certificate. Such certificates shall be filed not more than forty nor less than fifteen days before the day on which such election is to be held.

Vacancies caused by death or disqualification of a candidate nominated may be filled by the committee named in such certificate in the manner provided by the election law.

Such petition shall also have annexed thereto a written consent to accept the office to which they are nominated in case of their election, signed by the candidates nominated thereby and duly acknowledged.

### Certification of Candidates.

§ 59. The city clerk shall at least ten days before each municipal election make and file in his office a certificate stating the names of all candidates to be voted for at such election, nominated as provided for in this act, and shall publish such certified list as provided by the election law for the publication of nominations for city elections held at a different time from a general election, but without any political names or emblems.

### PREFERENTIAL VOTING.

§ 60. The city clerk shall cause ballots and sample ballots for each regular municipal election to be prepared for all of the election districts in said city in the quantity prescribed by the election law. The ballots shall contain a complete list of all persons nominated. In case the number of candidates is more than three times the number of offices to be filled, the form of the ballot shall be substantially as follows:

#### Ballots.

General (or Recall) Municipal Election.

City of Olean (Inserting Date of Election).

#### Instructions.

To vote for any person, mark a cross (X) in a square at the right of his name.

Vote your first choice for (five) commissioners in the first column.

Vote your second choice for (five) commissioners in the second column.

Vote your third choice for (five) commissioners in the third column.

Do not vote more than one choice for one person

If you wish to vote for persons whose names are not printed on this ballot, write the name or names, not more than (five) in the blank spaces under the printed names of candidates.

Any distinguishing mark makes the ballot void.

If you wrongly mark, tear or deface this ballot, return it and obtain another from the election officers.

For commissioners. Vote for (five) different persons in each of the three columns.	First choice.	Second choice.	Third choice.
..... John Doe			
..... Richard Roe			
..... John Brown			
..... Joseph Smith			
..... Edward Jones			
Write below the names of any persons not named above for whom you wish to vote, not more than (five).			
.....			
.....			
.....			
.....			
.....			
.....			

§ 61. When the number of candidates is more than two times the number of offices to be filled, and not more than three times the number of offices to be filled, the ballots shall give first and second choice columns only; and the instructions to voters on the ballots shall be modified correspondingly.

§ 62. When the number of candidates is not more than two times the number of offices to be filled, only one column for marking votes shall appear; and the instructions to voters on the ballot shall be modified correspondingly.

### Non-Partisan Ballots.

§ 63. The ballots used in all elections provided for in this act shall be without party marks or designations. The names of can-

didates on such ballots shall be printed in rotation as follows:

The ballots shall be printed in as many series as there are candidates for commissioner. The whole number of ballots to be printed shall be divided by the number of series and the quotient so obtained shall be the number of ballots in each series.

In printing the first series of ballots the names of candidates for commissioner shall be arranged in alphabetical order according to surname. After printing the first series the first name in the list of candidates shall be placed last in such list and the next series printed, and the process shall be so repeated until each name in the list of candidates shall have been printed first an equal number of times. The ballots so printed shall be numbered so that the ballots of the several series follow each other in rotation. The ballots shall in all other respects conform as nearly as may be to the ballots prescribed by the general election laws of the state.

### Election Supplies and Tally Sheets.

§ 64. The clerk shall provide for each polling place the necessary supplies, poll books, distance markers, tally sheets, inspectors and ballot clerks' return blanks, pens, penholders and such other articles of stationery as may be necessary, for the conduct of each municipal election, and deliver the same to the inspectors of election in the respective districts as provided in the election law. The tally sheets shall be in substantially the same form as provided by the election law except that spaces shall be provided for making a tally of the first, second and third choice votes for each candidate and for a tally of blank votes in each of the first, second and third choice columns and the returns provided for by the election law shall show the number of the first, second and third choice votes for each candidate respectively and the number of blank votes in each of the first, second and third choice columns.

### Conduct of Elections.

§ 65. Municipal elections shall be conducted in the same manner as provided by the election law for general elections, except as herein otherwise provided. And all provisions of law relating to the conduct of general elections not inconsistent with the provisions of this act and all provisions of law for the punishment of offenses against the elective franchise shall apply to all elections held pursuant to the provisions of this act. A voter who cannot read shall be entitled to assistance as provided by the election law.

### Canvass of Vote.

§ 66. At the close of such election, the election officers in each election district shall proceed to count and canvass the votes cast in such district in the manner provided for by the election law except as in this act otherwise provided.

§ 67. A mark in the first-choice column on the ballot shall be

understood to indicate that the voter thereby expresses his highest preference for candidates to fill the office voted for; a mark in the second-choice column on the ballot shall be understood to indicate the voter's second highest preference; and a mark in the third-choice column the voter's third highest preference.

(a) As soon as the polls are closed, the precinct election officers shall open the ballot boxes, take therefrom and count the ballots and enter the total number thereof on the tally sheets provided therefor. They then shall count and enter the number of the first, second and third choice votes for each candidate on said tally sheet and make return thereof to the city clerk, as provided by the election law.

(b) If a ballot contain more than one vote for the same candidate, only the one of such votes highest in rank shall be counted. If a ballot contain either first, second or third choice votes in excess of the number of offices to be filled, no vote in the column showing such excess shall be counted. If the ballot contain the names of candidates written in the blank spaces provided for that purpose and no mark is made in the first choice voting column, such ballot shall be counted as a first choice vote for the candidates whose names are so written in such blank spaces.

(c) The foregoing portion of this section shall be printed conspicuously on the tally sheets furnished by the clerk to the election officers

(d) Candidates receiving a majority of first choice votes for any office shall be elected. If the full number of candidates to be elected do not receive such a majority of the first choice votes for such office, a canvass shall then be made of the second choice votes received by those candidates for said office who are not elected by first choice votes; said second choice votes shall be added to the first choice votes received by such candidate and candidates who, by such addition, shall receive a majority, shall be elected.

(e) If by the count of either first choice votes or first and second choice votes, as above provided, more candidates than there are offices to be filled shall receive a majority, the candidate or candidates equal in number to the number of offices to be filled having the highest vote shall be elected.

(f) If the full number of candidates to be elected do not receive a majority by adding first and second choice votes, as above directed, a canvass shall then be made of the third choice votes if any received by those candidates for said office who are not elected either by first choice votes or by adding first and second choice votes, said third choice votes shall be added to the first and second choice votes received by such candidates, and the candidates, equal in number to the number of offices remaining to be filled, who receive the highest number of votes by said election, shall be elected. If the ballots contain only first and second choice columns and the full number of candidates to be elected do not receive a majority by adding first and second choice votes, the candidates equal in number to the offices remaining to be filled who receive the highest number of votes shall be elected.

(g) A tie between two or more candidates shall be decided in favor of the one having the highest number of first choice votes. If they are also equal in that respect, then the highest number of second choice votes shall determine the result. If this does not decide, then the tie shall be determined by lot, under the direction of the canvassing board.

(h) Whenever the word "majority" is used in this section, it shall mean more than one-half of the total number of ballots cast at such election.

§ 68. No informalities in conducting municipal elections shall invalidate the same, if they be conducted fairly and in substantial conformity with the requirements of this act.

§ 69. Upon the completion of the canvass of votes, the inspectors of election shall make and sign an original statement thereof as provided by the election law except that such statement shall also show the number of first, second and third choice votes for each candidate. Such statement and the other matters required to be returned by the election law shall be filed with the city clerk immediately after the completion of such canvass.

### Board of Canvassers.

§ 70. The commission shall be the board of canvassers in such city for all municipal elections and shall meet in the day next succeeding each municipal election and from the statements filed with the city clerk by the inspectors of election of the several election districts, as hereinbefore provided, proceed to canvass the votes cast at such election in the manner hereinbefore provided and declare elected the persons found to be elected according to the provisions hereof. The city clerk shall notify the several persons so elected of their election within five days thereafter. In case the day succeeding any such election shall fall upon Sunday or a legal holiday, such commission shall meet as a board of canvassers on the next succeeding business day thereafter.

## ARTICLE V.

### MAYOR AND COMMISSIONERS.

#### Term.

§ 75. The term of office of the commissioners shall be two years and until their successors are elected and have qualified. They shall serve without compensation.

#### Vacancies.

§ 76. Vacancies in the commission shall be filled by the remaining commissioners until the next municipal election when the same shall be filled by election for the unexpired term, if any.

### Qualifications.

§ 77. Members of the commission shall be electors of the city of Olean. In case any commissioner ceases to be an elector of said city, such office shall be vacant and such commissioner thereafter disqualified to perform the duties of his office.

### Mayor.

§ 78. The commissioners shall choose one of their number as mayor for a term of one year. The mayor shall be the presiding officer at the meeting of the commissioners, but shall have a vote upon all questions. The commission shall choose a president pro tempore to act in case of the absence or disability of the mayor.

### Vacancy.

§ 79. In the event that the office of mayor shall become vacant the commission shall select another of their number as mayor who shall serve as such during the remainder of said term of one year.

§ 80. In case the mayor shall be absent or unable to perform the duties of his office for a period of twenty-four hours consecutively, or in case the mayor shall file with the city clerk a certificate that he is unable to perform the duties of his office, the president pro tempore of the commission shall thereupon have the powers and perform the duties of the mayor until such absence or disability shall cease or such certificate be revoked by the mayor. In case of a vacancy in the office of mayor, the president pro tempore shall likewise act as mayor until such vacancy be filled.

### Power to Investigate.

§ 81. The commission or any committee thereof duly authorized by the commission so to do, may investigate the financial transactions of any office or department of the city government and the official acts and conduct of any city official, and by similar investigations may secure information upon any matter. In conducting such investigations the commission or any committee thereof may compel the attendance of witnesses and the production of books, papers and other evidence and for that purpose may issue subpoenas which shall be signed by the presiding officer of the commission or the chairman of such committee, as the case may be, which may be served by any officer authorized by law to serve subpoenas and other process. If any witness shall not obey such subpoena or refuse to testify to any facts within his knowledge or to produce any papers or books in his possession or under his control relating to the matter under inquiry before the commission or any such committee, the commission shall have the power to cause an attachment to be procured and the witness to be punished as for contempt in the manner provided by law. No witness shall be excused from testifying touching his knowledge of the matter under investigation in any such inquiry, but such testimony shall not be used against him in any

criminal prosecution except for perjury committed upon such inquiry.

## ARTICLE VI.

### MEETINGS OF THE COMMISSION.

§ 85. At ten o'clock ante meridan on the first Monday in March following a regular municipal election and on the first Monday following a recall election, the commission shall meet at the usual place for holding the meetings of the legislative body of the city.

Thereafter the commission shall meet at such times as may be prescribed by ordinance or resolution, but not less than once each week. The mayor, any two members of the commission or the city manager may call special meetings of the commission upon at least twelve hours' written notice to each member, served personally upon each member or by leaving the same at his usual place of residence. All meetings of the commission shall be public and any citizen shall have access to the minutes and records thereof at all reasonable times. The commission shall determine its own rules and order of business and shall keep a journal of its proceedings and may compel the attendance of absent members.

### Quorum.

§ 86. A majority of all members elected shall constitute a quorum; a less number may, however, adjourn or compel the attendance of absentees.

§ 87. An absence on the part of any commissioner from five consecutive regular meetings unless authorized by the commission shall forfeit the office of such commissioner and such office shall be deemed vacant.

§ 88. The affirmative vote of a majority of all commissioners in office shall be necessary to adopt any ordinance or resolution, except when a larger number is required by this act. The vote of each commissioner upon every ordinance shall be entered upon the journal.

## ARTICLE VII.

### CITY CLERK.

§ 95. The commission shall choose a clerk and such other officers and employees of its own body as it shall deem necessary. The clerk shall be known as the city clerk and shall have the custody of and preserve the seal of said city and the records and keep a journal of the proceedings of the commission.

### Powers.

§ 96. The city clerk shall have all the powers and perform all the duties of city clerk as provided by any general law of the state of New York. He shall maintain an office where all books and

papers required by law to be kept deposited, filed or entered in the office of a city or town clerk may be deposited, filed or entered and he shall in and for said city possess the powers, discharge the duties and receive the fees of a town clerk. He shall upon the payment of the fees provided by law, furnish to any person copies of any record or document in his office, certified by him under the seal of the city to be a true copy of such record or document.

### Collection of Taxes.

§ 97. The city clerk shall possess all the powers and perform all the duties in and for said city of collector of taxes in towns for the collection and return of state and county taxes in said city and with reference to the sale of lands for unpaid state and county taxes.

### Salary.

§ 98. The city clerk shall receive a salary to be fixed by the commission and all fees received by him shall belong to the city to be kept and accounted for as provided in this act.

### Deputy Clerk.

§ 99. The commission may by ordinance provide for the appointment of a deputy city clerk to assist the city clerk in the performance of his duties and in the absence or inability of the city clerk, or a vacancy in the office, to perform the duties of such office.

## ARTICLE VIII.

### ORDINANCES.

§ 105. For the purpose of executing any power conferred upon said city or upon the commission by this act or otherwise, the commission shall have full power to make, enact, amend or repeal ordinances and resolutions, not inconsistent or in conflict with the general laws of the state, but such ordinances may provide regulations in addition to those provided by general law.

Every ordinance shall, before taking effect, be published at least once in the official paper.

§ 106. Each proposed ordinance or resolution shall be introduced in written or printed form, delivered to the clerk and preserved by him. No ordinance or resolution shall contain more than one subject which in case of ordinances shall be clearly stated in the title; but general appropriation ordinances may contain the various subjects and accounts for which moneys are to be appropriated. The enacting clause of all ordinances passed by the commission shall be "Be it ordained by the commission of the city of Olean." The enacting clause of all ordinances adopted by the people of said city shall be "Be it ordained by the people of the city of Olean."

### Appropriation Ordinances.

§ 107. No ordinance or resolution to appropriate money unless it be declared an emergency measure, shall be passed on the day on which it shall have been introduced, unless so ordered by an affirmative vote of four members of the commission.

§ 108. Every ordinance or resolution to revise or amend another ordinance or resolution shall contain the entire ordinance or resolution or section thereof proposed to be revised or amended and the original ordinance, resolution or section so amended shall be repealed thereby.

### Emergency Measures.

§ 109. All ordinances and resolutions shall be in effect from and after thirty days after the date of their passage by the commission, except as otherwise provided in this act. The commission may by an affirmative vote of not less than four members, pass emergency measures to take effect within less than thirty days. An emergency measure is an ordinance or resolution for the immediate preservation of the public peace, property, health or safety, or providing for the usual daily operation of a municipal department, which emergency shall be set forth and defined in a preamble thereto. Ordinances appropriating money may be passed as emergency measures, but no measure making a grant, renewal or extension of a franchise or other special privilege or regulating the rate to be charged for its service by a public utility shall ever be passed as an emergency measure. Every ordinance or resolution upon its final passage shall, together with the certificate of the city clerk stating the time and manner of the publication thereof, be recorded in a book kept for that purpose and shall be authenticated by the signature of the presiding officer and the city clerk. Every ordinance or resolution shall be published at least once within ten days after its final passage in such manner as is provided in this act.

§ 110. The said record or a copy thereof, certified by the city clerk under the corporate seal of said city to be a true copy of such record, shall be presumptive evidence in all courts and places and in all actions and proceedings of the due passage of such ordinance, rule, regulation, by-law or resolution, and of its having been duly published as by this act required.

### Violation of Ordinances.

§ 111. Any person violating any ordinance of the commission shall be guilty of a misdemeanor and the commission may provide therein or by general ordinance that any person guilty of such a violation shall be liable to fine which shall not exceed one hundred and fifty dollars in amount, or to imprisonment not exceeding one hundred and fifty days, or to both such fine and imprisonment, or such ordinance may provide for a penalty not exceeding five hundred dollars to be recovered by the city in a civil action.

§ 112. In addition to the fines and penalties hereinbefore provided for; the city may also maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain the violation of any ordinance of the commission, notwithstanding the ordinance provides a penalty or fine for such violation.

## ARTICLE IX.

### INITIATIVE AND REFERENDUM.

#### Protest—10 Percent.

§ 120. Any proposed ordinance except appropriations, may be submitted to the commission by petition signed by at least ten per centum of the total number of registered voters in the municipality who voted at the last municipal election. All petition papers circulated with respect to any proposed ordinance shall be uniform in character and shall contain the proposed ordinance in full and have printed or written thereon the names and addresses of at least five electors who shall be officially regarded as filing the petition and shall constitute a committee of the petitioners for the purpose hereinafter named.

§ 121. Each signer of a petition shall sign his name in ink or indelible pencil and shall place on the petition paper after his name, his place of residence by street and number. The signatures to any such petition paper need not all be appended to one paper but to each such paper there shall be attached an affidavit by the circulator thereof stating that the number of signers to such part of the petition and that each signature appended to the paper is the genuine signature of the person whose name it purports to be and was made in the presence of the affiant. If such affidavit be false, the person making the same shall be guilty of perjury.

§ 122. All papers comprising a petition shall be assembled and filed with the city clerk as one instrument and when so filed the city clerk shall submit the proposed ordinance to the commission at its next regular meeting. Provision shall be made for public hearings upon the proposed ordinance.

#### Initiative or Referendum Petitions—15 Percent. Additional.

§ 123. The commission shall take final action thereon within thirty days from the date of submission. If the commission fails to act thereon or rejects the proposed ordinance or passes it in form different from that set forth in the petition the committee of the petitioners may require, if a petition therefor is presented bearing additional signatures of fifteen per centum of the electors of the city who voted at the last municipal election, that such ordinance be submitted to a vote of the electors in its original form or with any proposed change or amendment. Such additional petitions shall be signed and proven in the same manner as hereinbefore provided for petitions submitting proposed ordinances to the commission.

§ 124. When an ordinance proposed by petition is required to be submitted to a vote of the electors as provided in the last preced-

ing section, the committee of the petitioners shall certify that fact and submit the proposed ordinance with such additional petitions to the city clerk within twenty days after the final action on such proposed ordinance by the commission.

### Referendum Election.

§ 125. Upon receipt of the certificate, additional petitions and certified copy of the proposed ordinance, signed by the members of such committee, the city clerk shall present the same to the commission at its next regular meeting. If a municipal or recall election is to be held not more than three months nor less than thirty days after the receipt of such proposed ordinance by the commission, the same shall then be submitted to a vote of the electors. If no such election is to be held within the time aforesaid, the commission shall within ten days after the presentation to it of such proposed ordinance by the city clerk, call a special election for submitting the same to the voters, such election shall be held not less than ten or more than thirty days after the same is called.

### Election Notice.

§ 126. The city clerk shall cause notice of such election to be published in the official paper at least twice before such election. Such notice shall state the time and the places at which such election shall be held and shall contain a copy of such proposed ordinance. The last publication shall be made at least three days before such election.

### Ballots.

§ 127. The city clerk shall prepare ballots for such election in the number and in the form prescribed by the election law for the submission of questions to the voters. The question printed upon the ballot shall be "Shall the proposed ordinance (setting forth the title of the proposed ordinance) be adopted?"

§ 128. The ballots, stationery and supplies for conducting such election shall be prepared and delivered to the inspectors of election by the city clerk and such special election shall be conducted at the places and in the manner hereinbefore provided for municipal elections.

### Canvass of Vote.

§ 129. The vote at such election shall be canvassed by the inspectors of election and returns made and the result of the election canvassed by the commission as provided in this act in relation to municipal elections.

§ 130. If a majority of the electors voting on any such proposed ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the city.

§ 131. Proposed ordinances for repealing any existing ordinance or ordinances in whole or in part may be submitted to the commission as provided in the preceding sections for initiating ordinances. Initiated ordinances adopted by the electors shall be published and may be amended or repealed by the commission as in the case of other ordinances.

### Referendum on Ordinances.

§ 132. If at any time within thirty days after its final passage a petition signed by twenty-five per centum of the total number of registered voters in the municipality who voted at the last municipal election be filed with the city clerk requesting that any ordinance except an emergency measure be repealed or submitted to a vote of the electors, it shall not become operative until the steps indicated herein have been taken.

§ 133. Such petitions need not contain the text of the ordinance, the repeal of which is sought, but shall in all other respects conform to the requirements of petitions for submitting proposed ordinances to the electors.

§ 134. The city clerk shall deliver the petition to the commission. If upon reconsideration the ordinance be not entirely repealed, the commission shall submit the same to a vote of the electors' in the same manner as provided by sections one hundred twenty-four to one hundred twenty-nine exclusive of this act. If when submitted to a vote of the electors, any such ordinance be not approved by a majority of those voting thereon, it shall be deemed repealed.

### Ordinances.

§ 135. Ordinances submitted to the commission by initiative petition and passed by the commission without change or passed in an amended form and not required to be submitted to a vote of the electors by the committee of the petitioners, shall be subject to the referendum in the same manner as other ordinances.

### Conflicting Ordinances.

§ 136. If the provisions of two or more ordinances adopted or approved at the same election conflict, the ordinance receiving the highest affirmative vote shall prevail.

### Referendum on Emergency Measures.

§ 137. Ordinances passed as emergency measures shall be subject to referendum in like manner as other ordinances, except that they shall go into effect at the time indicated in such ordinances. If when submitted to a vote of the electors, an emergency measure be not approved by a majority of those voting thereon, it shall be considered repealed as regards any further action thereunder; but such ordinance so repealed shall be deemed sufficient authority for

any act performed or payment made in accordance with the ordinance previous to such repeal.

§ 138. All ordinances and resolutions heretofore enacted or adopted by the common council and in force at the time of the taking effect of this act not inconsistent with its provisions shall continue in force until amended or repealed.

## ARTICLE X.

### FRANCHISES AND PUBLIC UTILITIES.

#### Grant.

§ 145. The commission may by ordinance grant permission to any individual, company or corporation authorized by law to construct and operate a public utility in the streets and public grounds of the city. The ordinance granting any such franchise shall be subject to petition and referendum as specified in sections one hundred thirty-two, one hundred thirty-three and one hundred thirty-four of this act. No franchise shall be considered an emergency measure.

#### Renewals.

§ 146. The commission may by ordinance, renew any grant for the construction or operation of any utility at its expiration subject to petition and referendum as before stated.

#### No Exclusive Grant.

§ 147. No exclusive franchise or renewal shall ever be granted and no franchise shall be renewed before one year prior to its expiration.

#### Conditions.

§ 148. The commission may in any ordinance granting or renewing any franchise to construct and operate a public utility prescribe the kind and quality of service or product to be furnished, the rate or rates to be charged therefor, the manner in which the streets and public grounds shall be used and occupied and any other terms and conditions conducive to the public interest not inconsistent with the general laws of the state.

#### Extension.

§ 149. The commission may by ordinance, grant to any individual, company or corporation operating a public utility, the right to extend the appliances and service of such utility, subject to petition and referendum as before stated. All such extensions shall become a part of the aggregate property of the utility and shall be subject to all the obligations and reserved rights in favor of the city applicable to the property of the utility by virtue of the

ordinance providing for its construction and operation. The right to use and maintain any such extension shall expire with the original grant of the utility to which the extension was made or any renewals thereof.

### Consent.

§ 150. No consent of the owner of property abutting on any highway or public ground shall be required for the construction, extension, maintenance or operation of any public utility by original grant or renewal unless provided by the general laws of the state.

### Regulations.

§ 151. The commission shall have power to regulate and control the distribution of space in, over, under or across all streets or public grounds occupied by public utility fixtures. All rights granted for the construction and operation of public utilities shall be subject to the continuing right of the commission to require such reconstruction, re-location, change or discontinuance of the appliances used by the utility in the streets, alleys, avenues and highways of the city, as shall in the opinion of the commission be necessary in the public interest.

## ARTICLE XI.

### OFFICERS—GENERAL PROVISIONS.

#### Oath of Office.

§ 155. The commissioners and all the officers provided for in this act shall, before entering upon the duties of their offices, take and file with the city clerk the constitutional oath of office.

#### To Hold No Other Public Office.

§ 156. Neither the commissioners or any other officer or employee of the city shall hold any other public office or employment except in the national guard or as notary public or commissioner of deeds.

#### To Be Interested in No City Contracts.

§ 157. No commissioner, officer or employee of the city shall be interested in any contract, work or service for the city directly or indirectly except in the salary of the office or position which they may hold respectively. Any such contract may be declared void by the commission.

#### No Favors to City Employees.

§ 158. No commissioner, officer or employee of the city shall accept any frank, free ticket, pass or service directly or indirectly

or accept the same upon terms more favorable than are granted to the public generally. Except it may be provided by ordinance that policemen or firemen may accept the same when in uniform or wearing their official badges. This section shall not apply to any pass, free ticket or service furnished by any corporation to its employees.

#### Misdemeanor.

§ 159. Any officer or employee of the city who shall violate the provisions of either of the last two sections shall be guilty of a misdemeanor and his office shall be vacant.

#### Transfer of Powers and Duties.

§ 160. The powers which are conferred and the duties which are imposed upon any officer, board, commission or department of the city under the laws of the state, shall, if such officer, board, commission or department is abolished by this act, be thereafter exercised and discharged by the officer, board or department upon whom are imposed corresponding functions, duties and powers under the provisions of this act and if none, by such as the commission may prescribe.

### ARTICLE XII.

#### CIVIL SERVICE.

§ 165. The commission shall appoint a civil service commission who shall hold office and perform the duties provided for by the civil service law. The city manager and all directors of departments, city clerk, auditor, treasurer, chief of police and chief of fire department shall be exempt from civil service examination and may be removed as provided in this act summarily and without any charge of incompetency or misconduct or the statement of any reason and regardless of whether the person holding such office be an honorably discharged soldier or marine or exempt fireman.

### ARTICLE XIII.

#### CITY MANAGER.

§ 170. The commission shall appoint a city manager who shall be the administrative head of the municipal government and shall be responsible for the efficient administration of all departments. He shall be appointed without regard to his political beliefs and may or may not be a resident of the city of Olean. He shall hold office at the will of the commission.

#### Powers and Duties.

§ 171. The powers and duties of the city manager shall be:  
(a) To see that the laws and ordinances are enforced;  
(b) To appoint and, except as in this act otherwise provided,

remove all directors of the departments and all subordinate officers and employees in the departments, except the city clerk, auditor, treasurer and assessors;

(c) To exercise control over all departments and divisions created herein or that may be hereafter created by the commission;

(d) To attend all meetings of the commission with the right to take part in the discussion, but having no vote;

(e) To recommend to the commission for adoption such measures as he may deem necessary or expedient;

(f) To keep the commission fully advised as to the financial condition and needs of the city; and to sign, seal and acknowledge all deeds, contracts and other instruments in writing on behalf of the city when authorized by resolution of the commission.

(g) To perform such other duties as may be prescribed by this act or be required of him by ordinance or resolution of the commission.

### Investigations by City Manager.

§ 172. The city manager may without notice cause the affairs of any department or the conduct of any officer or employee to be examined. Any person or persons appointed by the city manager to examine the affairs of any department or the conduct of any officer or employee shall have the same power to compel the attendance of witnesses and the production of books and papers and other evidence and to cause witnesses to be punished for contempt as is conferred upon the commission by this act.

## ARTICLE XIV.

### ADMINISTRATIVE DEPARTMENTS.

§ 175. The following administrative departments are hereby established:

1. Department of law.
2. Department of public service.
3. Department of public welfare.
4. Department of public safety.
5. Department of finance.

§176. The commission may by ordinance discontinue any department and combine and distribute the functions and duties of departments and sub-divisions thereof, except the department of finance as provided by this act, but additional duties may be placed upon said department.

§ 177. Each director of a department shall conduct the affairs of his department subject to the supervision and control of and in accordance with the rules and regulations made by the city manager and shall be responsible for the conduct of the officers and employees of his department, for the performance of its business and for the custody and preservation of the books, records, papers and property under its control.

**DEPARTMENT OF LAW****City Attorney.**

§ 178. The city attorney shall be an attorney at law, admitted to practice in the state of New York and shall be the head of the department of law. He shall be the legal adviser of and attorney and counsellor for the city and for all officers and departments thereof in matters relating to their official duties. He shall prosecute and defend all suits for and behalf of the city and such other suits, matters and controversies as he shall, by resolution or ordinance, be directed to prosecute or defend, and shall prepare all contracts, bonds and other instruments in writing in which the city is concerned and shall endorse on each his approval of the form and correctness thereof.

§ 179. The commission, the city manager, the director of any department or any officer or board not included within a department shall require the opinion of the city attorney upon any question of law involving their respective powers and duties.

§ 180. The city attorney shall apply in the name of the city to a court of competent jurisdiction for an order of injunction to restrain the misapplication of funds of the city or the abuse of its corporate powers, or the execution or performance of any contract made in behalf of the city in contravention of law or which was procured by fraud or corruption.

§ 181. When an obligation or contract made on behalf of the city granting a right or easement or creating a public duty is being evaded or violated, the city attorney shall likewise apply for the forfeiture or the specific performance thereof as the nature of the case requires.

§ 182. In case any officer or board fail to perform any duty required by law, the city attorney shall apply to a court of competent jurisdiction for a writ of mandamus to compel the performance of such duty.

§ 183. In case the city attorney, upon written request of any taxpayer of the city, fails within ten days thereafter, to make any application provided for in the preceding three sections, such taxpayer may institute suit or proceedings for such purpose in his own name on behalf of the city. No such suit or proceeding shall be entertained by any court until the taxpayer shall have given security for costs.

§ 184. No such action to enjoin the performance of a contract entered into or the payment of any bonds or notes issued by the city shall be brought or maintained unless commenced within one year from the date of such contract, bonds or notes.

§ 185. The award of costs in any such action shall be discretionary.

**DEPARTMENT OF PUBLIC SERVICE.**

§ 186. Subject to the supervision and control of the city manager in all matters, the director of public service shall manage and

have charge of the construction, improvement, repair and maintenance and the cleaning, lighting and sprinkling of streets, sidewalks, alleys, lanes, bridges, viaducts and other public highways; of the municipal water works, of sewers, drains, ditches, culverts, canals, streams and water courses; the collection and disposal of waste; of all public buildings; of boulevards, squares and other public places and grounds belonging to the city or dedicated to public use, except parks and playgrounds. He shall manage market houses, sewage disposal plants and farms and all public utilities of the city.

§ 187. He shall have charge of the making and preservation of all surveys, maps, plans, drawings and estimates for such public work; the preservation of contracts, papers, plans, tools and appliances belonging to the city and pertaining to the department.

### Water Works.

§ 188. The director of public service shall have the management and control, under the supervision of the manager, of the water works of said city. He shall be authorized at all times to enter into any building or place where water is furnished by the city to examine all pipes, meters and other appliances used in connection with the supply of such water.

§ 189. The service pipes leading from the supply pipes in the street to private premises shall be constructed and kept in repair at the expense of the owner or occupant of such private premises.

### Rents.

§ 190. The commission shall have power from time to time to make and establish ordinances fixing a scale of rents or charges to be paid for water furnished and regulating the construction of service pipes and the manner of using water furnished by the city and for enforcing the collection of water rents and may provide in addition to other penal provisions for discontinuing the supply of water to any person violating such ordinance.

### Acquire Lands.

§ 191. The commission shall have power in the name of said city to acquire any lands necessary for the alteration, enlargement or improvement of the water works in the manner provided by the condemnation law.

### Receipts.

§ 192. The entire annual receipts for water rents after deducting therefrom such sums as may be necessary to defray the expenses of said water works and of extending the same shall be applied toward the payment of the principal and interest of the bonds of said city heretofore issued for the construction of water works or of any bonds issued for the refunding of any bonds issued for such

purpose and such receipts shall be kept separate and apart from the other funds of said city and used for no other purpose so long as any such bonds remain unpaid, except toward the creation of a sinking fund for the payment of the principal of any such bonds as they shall from time to time become due and payable, which sinking fund shall be managed by the commission. No investment shall be made in behalf of such sinking fund excepting in the bonds of the United States, of the state of New York or of any city of this state and in the bonds, certificates or other obligations authorized to be issued by the city of Olean, which last named bonds, certificates and obligations the commissioners may purchase at any time when they shall have the funds applicable at prices not exceeding five per centum over their par value, and when so purchased, said bonds, certificates and obligations shall not be re-issued, but shall be immediately cancelled.

## DEPARTMENT OF PUBLIC WELFARE.

§ 193. The commission shall be the local board of health of said city and shall have the power and perform the duties therein of local boards of health as provided by the public health law.

### Health Officer.

§ 194. A health officer of the city shall be appointed, who shall be a competent physician and under the direction and control of the commission, shall enforce all ordinances and laws relating to health and shall perform all duties and have all the powers provided by general law relative to the public health to be exercised in the municipalities by health officers, and enforce such regulations affecting the public health additional to those established by general law and for violation of which penalties are imposed as may be enacted by the commission.

### Director of Public Welfare.

§ 195. Subject to the supervision and control of the city manager, the director of public welfare shall manage all charitable, correctional and reformatory institutions and agencies belonging to the city and the use of all parks, playgrounds and other recreational facilities of the city.

### Shall Perform Duties of Overseer of Poor.

§ 196. The director of public welfare shall have the same powers and perform the same duties as overseers of the poor of towns except as otherwise provided by this act. He may from time to time as is necessary and proper issue written orders for aid to indigent persons. He shall render daily to the auditor an itemized statement of all such orders issued by him.

### **Licenses.**

§ 197. The director of public welfare shall have charge of the inspection and supervision of all occupations, professions, public amusements and entertainments regulated and licensed by ordinance. He shall issue all licenses provided for by such ordinances and collect all fees therefor. Such licenses shall be issued upon blank forms furnished by the auditor consecutively numbered and securely bound together. All such licenses shall, before the same shall be valid, be countersigned by the auditor. In case the holder of any such license shall violate the provisions of the ordinance under which the same was issued, the commissioner of public welfare shall have power to summarily revoke such license until the next meeting of the commission when it shall investigate the matter and dispose of the same as it may see fit.

### **Food Inspector, Sealer of Weights and Measures.**

§ 198. The director of public welfare shall enforce all laws, ordinances and regulations relative to the inspection and supervision of the production, transportation, storage and sale of food and foodstuffs. He shall also perform all the duties and possess all the powers of sealer of weights and measures in and for said city.

## **DEPARTMENT OF PUBLIC SAFETY.**

§ 199. The city manager shall be the executive head of the divisions of fire and police.

### **Police Force.**

§ 200. The police force shall be composed of a chief of police and such officers, patrolmen and other employees as the city manager shall determine. The chief of police shall have exclusive control of the stationing and transfer of all patrolmen and other officers and employees constituting the police force, under such rules and regulations as the city manager may prescribe. In case of riot, emergency, at the time of elections or similar occasions, the manager may appoint additional patrolmen and officers for temporary service who need not be in the classified service.

### **Police Possess Powers of Constable.**

§ 201. The chief of police and policemen shall possess all the power and authority of constables at common law and under the statutes of this state, except that they shall not have the power to serve any civil process in which the city is not a part. They shall be entitled to the same fees for executing commitments as constables. All such fees received by them shall belong to and be the property of the city of Olean and shall be accounted for to the auditor of said city and paid over to the treasurer of said city im-

mediately upon their receipt of said police officers. The chief of police shall keep a record of all arrests made by him and the policemen, which record shall state the name of the person arrested, the hour at which such arrest was made, for what offense, by whom arrested and the disposition of each case, and deliver a copy of such record daily to the city clerk. They shall have power without process to arrest, to be dealt with according to law, all persons guilty in their presence of a crime, or violating any of the police regulations, by-laws or ordinances of the city and all disorderly persons, and such other duties as shall be prescribed by resolution, order, by-laws or ordinances of the commission.

### Special Police.

§ 202. The city manager may appoint such number of special policemen as he may deem necessary. Such appointments shall be in writing, signed by the manager and filed in the office of the city clerk. Such special policemen shall hold office during the remainder of the municipal year in which they are appointed but may be removed by the manager at any time. Such special policemen shall have all the powers within said city of peace officers of the city or county and shall serve without compensation.

### Fire Force.

§ 203. The fire force shall be composed of a chief and such other officers, firemen and employees as the city manager may determine. The fire chief shall have exclusive control of the stationing and transfer of all firemen and other officers and employees constituting the fire force under such rules and regulations as the manager may prescribe. He shall also be the chief administrative authority in all matters affecting the inspection and regulation of the erection, maintenance, repair and occupancy of buildings as may be ordained by the commission or provided by the general laws of the state of New Ycrk. In case of riot, conflagration or emergency, the manager may appoint additional firemen and officers for temporary service who need not be in the classified service.

### Power to Suspend or Dismiss.

§ 204. The chief of police and fire chief shall have the right to suspend any of the officers or employees in their respective divisions who may be under their management and control, for incompetence, neglect of duty, immorality, drunkenness, failure to obey orders given by proper authority or for any other just and reasonable cause. If any officer or employee be suspended as herein provided, the chief of the division concerned shall forthwith in writing certify the fact, together with the cause for the suspension, to the manager who shall investigate such charge and render judgment thereon, which judgment, if the charge be sustained, may be suspension, reduction in rank or dismissal. In any such investigation,

the manager shall have the same power to administer oaths and secure the attendance of witnesses and the production of books and papers as is conferred upon the commission. The manager may, however, suspend or dismiss any such officer or employee without any hearing or the statement of any reason therefor.

### Relief Fund.

§ 205. The commission may provide by general ordinance for the relief, out of the police or fire funds, of members of the divisions of police and fire, temporarily or permanently disabled in the discharge of their duty. Nothing herein shall impair, restrict or repeal any provision of general law authorizing the levying of taxes to provide for firemen, police and sanitary police pension funds and to create and perpetuate boards of trustees for the administration of such funds.

## DEPARTMENT OF FINANCE.

§ 206. The department of finance shall consist of the city clerk, and an auditor and a treasurer to be appointed by the commission, and such other officers and employees as the commission may from time to time prescribe by ordinance. The auditor and treasurer shall hold office at the pleasure of the commission.

### City Clerk.

§ 207. The city clerk shall collect all general city taxes and all taxes levied by special or local assessment in the manner hereinafter provided.

### Auditor.

§ 208. The auditor shall issue all warrants for payments of money by the city, which shall be countersigned by the city manager.

§ 209. He shall keep an accurate account of all taxes and assessments, of all moneys due to or received and disbursed by the city, of all its assets and liabilities and of all appropriations made by the commission.

§ 210. He shall prescribe forms of reports to be rendered to him and the method of keeping accounts by all other officers and departments and shall require daily reports to be made to him by each department showing the receipt of all moneys by said department and the disposition thereof.

§ 211. At the end of each fiscal year and whenever required by the commission, the auditor shall audit the accounts of the several departments and officers of the city and shall audit all other accounts in which the city is interested. Upon the death, resignation, removal or expiration of the term of any officer or employee, the auditor shall audit the accounts of such officer or employee and if such officer or employee shall be found indebted to the city, he

shall immediately give notice thereof to the commission and to the city attorney.

§ 212. The auditor shall perform such other duties as may be prescribed by the commission and such as may be required by the general laws of the state and not inconsistent with this act.

§ 213. The auditor shall from time to time, apportion the revenues of the city as the same are collected among the various funds specified in the annual appropriation ordinance.

§ 214. Every officer or employee of the city who shall collect or receive any money belonging to the city shall, before paying the same to the treasurer, report the amount thereof and the source from which received, to the auditor and receive from him a deposit statement specifying the fund or funds to which said sum is to be credited.

§ 215. The auditor shall, before issuing any statement for the deposit of moneys, received on account of any city tax or assessment or license fees, examine the tax roll or rolls upon which such taxes are levied, or the book of forms of licenses or other record on account of which such fees are collected and endorse upon such deposit statement the amount theretofore collected upon any such tax roll, record or license book and paid to the treasurer, the amount remaining uncollected thereon and the amount for which such deposit statement is issued.

### Treasurer.

§ 216. The treasurer shall be the custodian of all moneys of the city and shall keep and preserve the same in such manner and in such place or places as shall be determined by the commission.

§ 217. He shall not receive any deposit of moneys from any officer or employee of the city except upon a deposit statement signed by the auditor. He shall pay out money only upon warrants issued by the auditor and countersigned by the city manager.

§ 218. He shall perform such other duties as may be required by the commission and by the general laws of the state not inconsistent with this act.

### Purchasing Agent.

§ 219. The commission shall designate some officer of the city other than the auditor or treasurer as purchasing agent. All purchases of supplies for the city shall be made and all vouchers for the payment of the same approved by the purchasing agent.

§ 220. The purchasing agent shall conduct all sales of personal property which the commission may authorize to be sold.

§ 221. All purchases and sales shall conform to such regulations as the commission may from time to time prescribe, but in any case if more than five hundred dollars is involved, advertisement for bids shall be made as provided in this act for contracts for public work.

§ 222. Where a purchase or a sale is made on account of more than one department, the purchasing agent shall apportion the

charge or credit to each department. He shall be responsible for the delivery of supplies to each department and take and retain receipts therefor.

§ 223. Until the commission shall otherwise provide, the city manager shall act as purchasing agent.

## ARTICLE XV.

### GENERAL FINANCIAL PROVISIONS.

#### Warrants.

§ 230. No warrant shall be drawn upon the treasurer of the city for the payment of money nor shall any obligation for the expenditure of money be incurred except in pursuance of an appropriation by the commission.

§ 231. No warrant for the payment of any claim shall be issued by the auditor unless such claim shall be evidenced by a voucher approved by the head of the department for which the indebtedness was incurred and countersigned by the city manager, nor unless the certificate provided for by the next section shall have been first made and filed, covering such claim. Before issuing such voucher the supplies and materials delivered or work done shall be duly inspected and certified to by the head of the proper department or office, or by a person designated by him. The head of each department or office shall require proper time reports for all service rendered to be certified by those having cognizance thereof, to serve as a basis for the preparation of pay roll vouchers. Each director of a department and his surety shall be liable to the city for all loss or damage sustained by the city by reason of the negligent or corrupt approval of any claim against the city in his department. Prior to drawing a warrant for the payment of any voucher or claim, the auditor may at his discretion, cause an investigation or inspection to be made by a person designated by him and shall have power to summon persons and examine them under oath or affirmation, which oath or affirmation he may administer.

#### No Expenditure Unless Money is to Credit of Fund.

§ 232. No contract, agreement or other obligation involving the expenditure of money shall be entered into, nor shall any ordinance, resolution or order for the expenditure of money be passed by the commission except the annual appropriation ordinance, or be authorized by any officer of the city unless the auditor first certify to the commission or to the proper officer, as the case may be, that the money required for such contract, agreement, obligation or expenditure is in the treasury to the credit of the fund from which it is to be drawn, and not appropriated for any other purpose, which certificate shall be filed and immediately recorded. The sum so certified shall not thereafter be considered unappropriated until the city is discharged from the contract, agreement or obligation. Any officer or employee of the city who shall incur any obligation for the payment of money, or certify any claim, or issue any voucher or war-

rant for the payment of money without the foregoing certificate having been made and filed shall be guilty of a misdemeanor.

All moneys actually in the treasury to the credit of the fund upon which they are to be drawn and all moneys applicable to the payment of the obligation or appropriation involved that are anticipated to come into the treasury before the maturity of such contract, agreement or obligation from taxes or assessments or from sales or services, products or by-products or from any city undertaking, fees, charges, accounts and bills receivable or other credits in the process of collection; and all moneys applicable to the payment of such obligation or appropriation, which are to be paid into the treasury prior to the maturity thereof, arising from the sale or lease of lands or other property, and moneys to be derived from lawfully authorized bonds sold and in process of delivery shall, for the purposes of such certificate, be deemed in the treasury to the credit of the appropriate fund and subject to such certification.

### Salaries of City Employees.

§ 233. The commission shall by ordinance fix the salary of the city manager and the salary or compensation of the heads of departments, of the city clerk, auditor, treasurer, and of its own employees, except as is provided by this act, the salary or compensation of the members of the divisions of police and fire under the immediate control of the chief thereof, and of members of boards in the unclassified service of the city.

The city manager shall fix the number and salaries or compensation of all other officers and employees.

The salaries or compensations so fixed shall be uniform for like service in each grade of the service as the same shall be graded or classified by the city manager in accordance with the rules and regulations adopted by the civil service board.

### Bonds of City Officials.

§ 234. The commission or city manager in fixing the salary of any officer, clerk or employee shall determine whether such officer, clerk or employee shall give a bond and the amount thereof, which bond shall be procured from a surety company authorized to do business under the laws of the state of New York. Premiums on such bonds shall be paid by the city.

### Fees.

§ 235. All fees and moneys received or collected by any officer or employee of the city shall be paid to the treasurer within forty-eight hours after the same shall have been received.

### Check Between Auditor and Treasurer.

§ 236. No moneys shall be received by the treasurer from any officer or employee of the city except upon a deposit statement is-

sued by the auditor as provided in this act and the treasurer shall report daily to the auditor such deposits.

### Publishing of Financial Statement.

§ 237. The commission shall cause to be made and published each year during the month of January a statement of all moneys received and all moneys expended and indebtedness incurred for and on account of the city during the twelve months ending on the last day of the preceding month. Failure to make and publish such statement shall be equivalent to the filing of a recall petition and a recall election shall be held the same as if a proper petition therefor had been made and filed as provided in this act.

### Contracts for Public Advertising.

§ 238. All public advertising or publication necessary under the provisions of this act shall be in a daily newspaper of general circulation within the city and shall be done by contract or in a journal published by the city, as may be determined by ordinance. If such contract shall be with a newspaper it shall be entered into only after advertising for bids as provided in this act with reference to contracts for public work and for a term of not longer than one year.

§ 239. Whenever the commission or any officer of said city shall let any contract for the performance of public work, notice shall be published in the official paper once a week for two successive weeks and plans and specifications for such work shall be open for inspection for at least fifteen days preceding the time fixed for the reception of bids. Such notice shall state the time and place at which bids for such work will be received, the amount of the bond required and that such plans and specifications will be open for inspection at a place designated in such notice. Before letting any such contract the successful bidder shall be required to enter into a bond for the faithful performance of such contract and give such additional security as the commission or officer letting such contract may require. Said contract shall be awarded to the lowest bidder who shall furnish such security, but the commission or such officer may reject all such bids.

### Contracts in Excess of \$500.

§ 240. No contract involving an expenditure in excess of five hundred dollars shall be awarded except upon the approval of the city manager and the commission.

In no instance shall contracts be let either as a whole or in aggregate, if bids for parts of the work are taken, which exceed the estimate for the improvement contemplated.

### Contracts—When Void.

§ 241. All contracts, agreements or other obligations entered into and all ordinances passed, resolutions and orders adopted con-

trary to the provisions of the last two preceding sections shall be void.

### Public Improvements by Contract or Direct Labor.

§ 242. Public improvements of all kinds may be made by the appropriate department, either by direct employment of the necessary labor and the purchase of the necessary supplies and materials, with separate accounting as to each improvement so made, or by contract duly let after competitive bidding, either for a gross price or upon a unit basis for the improvement, or by contract containing a guaranteed maximum and stipulating that the city shall pay within such maximum the cost of labor and materials, plus a fixed percentage of profit to the contractor. The commission, by ordinance, shall determine by which of the foregoing methods improvement shall be made. Contracts may provide a bonus per day for completion of the contract prior to a specified date, and liquidated damages to the city to be exacted in like sum for every day of delay beyond a specified date.

### Alteration or Modification in Contracts.

§ 243. When it becomes necessary in the prosecution of any work or improvement under contract to make alterations or modifications in such contract, such alterations or modifications shall be made only by resolution of the commission. No such alteration or modification shall be effective until the price to be paid for the work and material or both, under the altered or modified contract, shall have been agreed upon in writing and signed by the contractor and the city manager upon authority of the commission.

### Claims for Injury—Notice.

§ 244. The city of Olean shall not be liable for any damage or injury sustained in consequence of defects in, want of repair or obstruction of any of the highways, streets, alleys, sidewalks, crosswalks or public places of the city unless notice in writing shall have been served upon the mayor or acting mayor at least twenty-four hours before the happening of the casualty from which such injury or damage may have resulted and unless notice in writing shall have been served upon the mayor within forty-eight hours in case injury is sustained by a non-resident, after the happening of the casualty from which such damage or injury may have resulted, and such notices shall particularly state such defect, want of care or obstruction and the location thereof, and shall be served by delivering to and leaving the same with said mayor or acting mayor personally.

### Claims for Injury—When and How Presented.

§ 245. All claims for injury to person or property alleged to have been caused or sustained by reason of defects in, want of re-

pair or obstruction of any of the highways, streets, alleys, sidewalks or crosswalks or public places in the city shall be presented in writing to the commission within thirty days after the date of such alleged injury. Such statement in writing shall state the time, place, cause, nature and extent of the alleged injuries as far as practicable and shall be verified by an affidavit of the claimant or his agent or attorney to the effect that the same is true of his knowledge or his best information and belief. The omission to present any such claim in the manner and within the time in this section provided shall be a bar to any action against said city therefor. No action shall be commenced against said city on any duly presented claim until after the expiration of three months from the presentation thereof. Nor shall any action upon any such claim be maintained against said city which shall not have been commenced within one year after the cause of action accrued.

## APPROPRIATIONS.

### The Estimate.

§ 246. The fiscal year of the city shall begin on the first day of June. On or before the first day of March of each year the city manager shall submit to the commission an estimate of the expenditures and revenues of the city departments for the ensuing year. Such estimate shall be compiled from detailed information obtained from the several departments on uniform blanks to be furnished by the city manager. The classification of the estimate of expenditures shall be as nearly uniform as possible for the main functional divisions of all departments and shall set forth in parallel columns the following information:

(a) A detailed estimate of the expense of conducting each department as submitted by the department.

(b) Expenditures for corresponding items for the last two fiscal years.

(c) Expenditures for corresponding items for the current fiscal year including adjustments due to transfers between appropriations plus an estimate of expenditure necessary to complete the current fiscal year.

(d) Amount of supplies and materials on hand at the date of the preparation of the invoice.

(e) Increase or decrease of requests compared with the corresponding appropriations for the current year.

(f) Such other information as is required by the commission or that the city manager may deem advisable to submit.

(g) An estimate of the amount of money necessary to defray general or contingent expenses of the city and not embraced in the estimate of the expenses of conducting the several departments.

(h) The recommendation of the city manager as to the amounts to be appropriated with reasons therefor in such detail as the commission may direct.

### Appropriation Ordinance.

§ 247. Upon the receipt of such estimate the commission shall prepare an appropriation ordinance which shall be known as the annual appropriation ordinance; such ordinance shall specifically set apart the amounts deemed necessary and appropriated for the payment of salaries and the purchase of supplies in each department and also such sum as the commission deem necessary for contingent expenses in each department and such further sum as the commission deem necessary to defray any general or contingent expense of the city not included in the amount estimated and appropriated for each department. Such appropriation ordinance shall be published once in the official paper at least ten days before its adoption and such ordinance shall be adopted on or before the first Monday in April.

§ 248. The first commission elected after this act takes effect shall, within sixty days after entering upon the performance of their duties, prepare, publish and adopt an appropriation ordinance in the manner hereinbefore provided for the remainder of the current fiscal year which ordinance shall include all moneys then in the treasury and all uncollected resources belonging to the city. Such appropriation ordinance may include such additional sum as the commission deem necessary to conduct the affairs of the city for the remainder of the current fiscal year and the commission may issue certificates of indebtedness for any sum provided for in such appropriation ordinance over and above the amount of money then in the treasury and such uncollected resources. Such certificates of indebtedness shall bear interest at not to exceed six per centum per annum and shall be made payable within sixty days after the commencement of the next ensuing fiscal year. The amount of such certificates of indebtedness shall be included in the appropriation ordinance of the next ensuing fiscal year and levied and collected upon the tax roll for that year.

§ 249. The amounts set apart in such appropriation ordinance for the payment of salaries and the purchase of supplies for the respective departments shall be all the appropriations necessary to permit the disbursement of such sums for such purposes.

### Special Appropriations.

§ 250. The commission shall from time to time as may be necessary, make specific appropriations which shall be known as special appropriations, from the funds so estimated for general and contingent expenses of the several departments and for general and contingent expenses of the city not included in the estimates for the several departments and no money shall be disbursed on account of such general or contingent expenses except in pursuance of a specific appropriation by the commission.

### Transfer of Funds.

§ 251. No moneys so specifically appropriated and set apart shall be used, appropriated or applied to any other purpose than

the one for which the same was estimated and appropriated except that upon the application of the city manager the commission may at any time during the last three months of the fiscal year, transfer any part of an unencumbered balance of one appropriation to any purpose or object for which the appropriation made has proved insufficient or may transfer funds from one item for which the same was estimated to another item in the same department or from one item to another of general or contingent expenses not included in the estimate for any department.

§ 252. At the close of each fiscal year, the unencumbered and unexpended balance of each appropriation shall be added to and considered a part of the appropriation for the next ensuing fiscal year for the general and contingent expenses of the department for which such balance was originally appropriated and any unencumbered balance of the appropriation for general or contingent expenses of the city not appropriated for any department shall be added to the amount of such appropriation for the ensuing fiscal year and shall be subject to future appropriation.

§ 253. In making the annual appropriation ordinance the commission shall estimate all of the revenue of the city to be received from sources other than city taxes and from the total amount appropriated shall deduct the estimated amount of such revenue and raise the remainder of such amounts appropriated by taxation as provided in this act. In case such revenue from other sources than city taxes shall exceed the amount so estimated therefor, the excess may be appropriated by the commission either for general and contingent expenses of any department or for general and contingent expenses of the city not included in the appropriation of any department as hereinbefore provided.

### Misdemeanor.

§ 254. Any officer, including the commissioners or employees of the city, who shall in any manner have a part in the appropriation or disbursement of any moneys of the city in violation of any of the provisions of this article shall be guilty of a misdemeanor.

## ARTICLE XVI.

### ASSESSMENTS AND TAXATION.

#### Assessors.

§ 260. The commission shall appoint three assessors for said city to hold office for the term of three years. The assessors of said city in office at the time this act takes effect shall continue to hold their offices until the expiration of their respective terms when such offices shall be filled by appointment by the commission.

§ 261. The assessors shall perform all duties required of them by this act in relation to the assessment of property in said city, as well as for the purpose of levying taxes imposed by the board of supervisors of the county of Cattaraugus as those imposed by

the commission; and to that end they shall possess all the powers and authority and perform all the duties of and proceed in the same manner and make an assessment at the same time as town assessors in said county except as herein otherwise provided. The assessors shall annually between the fifteenth day of March and the first day of July ascertain by diligent inquiry all the property and the names of all the persons taxable therein.

### Assessment Roll.

§ 262. When the assessors have completed their assessment and on or before the fifth day of July in each year they shall furnish the auditor with all the necessary matter and information to enable him to prepare the assessment roll which he shall complete, and upon completion thereof the same shall be compared and corrected by the assessors and thereafter and on or before the first day of August in each year the assessors shall deliver the same to the auditor in whose custody it shall remain until the review day.

§ 263. The assessors shall give the notice prescribed by law for assessments in towns, except that the notice instead of stating that the assessment roll has been left with one of the assessors shall state that it has been left with the auditor.

§ 264. Upon the review day the said assessment roll shall be delivered to the assessors and they shall thereupon proceed as is provided by law for reviewing assessments in towns.

§ 265. The commission shall have power to examine and correct said city assessment roll in the same manner as the board of supervisors may, by law, examine and correct town assessment rolls, and shall possess all the powers in relation to said city assessment rolls and the levying of city taxes which the board of supervisors have by statute with respect to town assessment rolls.

### Ten Mills, Tax Limit.

§ 266. The commission shall have power to raise in each year by general tax upon the taxable inhabitants of said city and the property therein liable to taxation such sum of money as it shall provide by the annual appropriation ordinance not to exceed the sum or rate of ten mills upon each dollar of valuation in any one year, to be expended in the payment of the debts and expenses of said city.

§ 267. Such limitation, however, shall not apply to or include any amount to be raised by any special or local assessment to pay the proportion of the cost and expense of a public improvement to be paid by the owners of adjoining or specially benefited property and shall not include or apply to moneys necessary to be raised to pay the part of any such cost or expense to be paid by general tax or to pay the bonds or certificates of indebtedness and the interest thereon issued to pay that part of the cost and expense of any such public improvement to be paid by general tax as provided in this act. Such limitation shall not apply to or include any of the amount

to be raised by any assessment to pay for the construction or repair of sidewalks or outlet sewers or the bonds of the city heretofore issued to pay for outlet sewers nor to the moneys required to be raised in said city by the board of supervisors of Cattaraugus county as prescribed by law.

### **Olean General Hospital Fund.**

§ 268. The commission shall have the power to raise by general tax from the taxable inhabitants of said city and the property therein liable to taxation in addition to the amount necessary for the payment of the debts and ordinary expenses of said city, as specified in the last preceding section but one of this act, a sum not exceeding fifteen hundred dollars in any one year to be expended only in the payment of the expenses of heating, lighting, water rent and insuring against loss or damage by fire, the Olean General Hospital and the payment of the salary of the matron and the salary of the assistant matron and upon vouchers approved by the director of public welfare and the city manager.

### **Auditor Extends Assessment.**

§ 269. After the adoption by the commission of the annual appropriation ordinance the auditor shall, on or before the last day of April next thereafter apportion and extend upon the original assessment roll made during the then fiscal year or upon a copy thereof duly certified by him to be a copy of such original assessment roll and of the whole thereof, the moneys so appropriated over and above the amount of the estimated income and revenue of the city from all sources other than taxation and present the same to the commission.

### **City Clerk to Collect Taxes.**

§ 270. The commission shall cause its warrant to be attached to such tax roll, signed by the mayor and the auditor and directed to the city clerk, authorizing and directing the collection of such taxes as prescribed by law and shall cause such tax roll to be delivered to the city clerk for collection on or before the first day of May next thereafter.

### **Tax Notice.**

§ 271. Immediately upon receiving such tax roll and warrant the city clerk shall cause to be published in the official paper once in each week for four successive weeks a notice stating that he has received such tax roll and warrant and that such taxes may be paid to him at his office within thirty days from the first publication of such notice with a fee of one cent upon the dollar of tax; that the said tax may be paid during the next sixty days after the expiration of the first thirty days with the payment of a fee of two cents upon the dollar of tax and that after the expiration of ninety days

from the first publication of such notice such tax will become delinquent and will bear interest at the rate of ten per centum per annum and that a fee of five cents on a dollar of tax will be collected thereafter. The city clerk shall proceed to collect such taxes in the same manner as town collectors except as herein otherwise provided and shall collect fees and interest as specified in such notice.

### Delinquent Taxes Relaid.

§ 272. In case such tax shall remain uncollected at the time of making the next general assessment roll thereafter, such tax may again be relaid together with the interest and it may be relaid from time to time if the commission so directs until it is finally paid. Any delinquent tax so relaid shall be designated upon the tax roll as delinquent, giving the time when the same became delinquent, and interest thereon shall be collected from the time it first became delinquent.

### Taxes Lien on Property.

§ 273. All taxes and assessments assessed for or on account of or by reason of the ownership of real estate, including those levied by special assessment, shall be a lien upon the same from the time of completing the tax roll therefor and such lien shall be prior and superior to all other liens and encumbrances.

### Foreclosure of Lien.

§ 274. Any such lien may be foreclosed in the manner provided by law for the foreclosure of a mortgage upon real estate by action and different tax liens upon the same lands may be joined in one action. Any such tax or assessment may also be recovered in an action brought by the city against any person liable therefor and in an action for the enforcement of the lien thereof, in case the lien shall be established, the same proceedings shall be had as regards the property upon which such lien is established, as in actions for the foreclosure of a mortgage containing a power of sale.

### Evidence of Validity of Tax Roll.

§ 275. In any action to foreclose any such lien for, or to recover any such tax or assessment, the assessment or tax roll shall in all cases be presumptive evidence of the validity and amount of such lien and the right of recovery of the amount of such tax or assessment and interest, and no property shall be exempt from levy and sale for the payment of the same.

### Lien on Railroads.

§ 276. The amount of any tax levied and assessed against the owner of any railroad or street railroad for the improvement of that portion of any highway occupied by such railroad or street

railroad as provided in this act, and the amount assessed for relaying or repairing such portion of such improvement as provided in this act, shall be a lien upon the entire railroad or street railroad and the equipment used upon such railroad which lien shall be prior and superior to any other lien or incumbrance upon such railroad or street railroad or equipment.

## QUESTIONS SUBMITTED TO TAXPAYERS.

### Public Building and Public Improvement.

§ 277. The commission may cause to be levied and collected upon such tax roll such further sum in any one year over and above the amount hereinbefore limited as they may require and the commission shall have power to issue the bonds of said city to provide for the cost of the construction or reconstruction of any public building or public improvement for city purposes, providing a majority of the taxable inhabitants of said city authorized to vote and voting shall approve such additional tax or the issue of such bonds in the manner hereinafter provided.

### Time of Submitting Question.

§ 278. Whenever the commission decide that such additional tax or bonds should be made or issued, it shall so declare by resolution and such resolution shall fix a time and place at which an election will be held for submitting to the taxable inhabitants of said city the approval of such tax or the issue of such bonds, which time shall not be less than twenty days after the adoption of such resolution.

### Object of Tax Specified.

§ 279. Such resolution shall specify the objects for which said tax is proposed to be levied or said bonds issued and the sum proposed to be raised for each separate object.

### Payment and Interest.

§ 280. In case such proposition shall provide for the issue of bonds, the resolution of the commission and the notice of such election shall specify the time of payment of and the rate of interest upon such proposed bonds. The time of payment of such bonds shall be not more than twenty years from the date of issue and shall bear interest at not to exceed six per centum per annum.

### Election Notice.

§ 281. Upon the adoption of such resolution the auditor shall cause notice to be published in the official paper at least once a week for two successive weeks, which notice shall set forth a copy of such resolution and the time and place when such election will be held.

### Eligible Voters.

§ 282. At such election every qualified elector assessed upon the assessment roll for the then current year shall be entitled to vote and every executor, administrator, trustee, guardian or husband the property of whose estate, ward or wife is so assessed shall be entitled to vote upon such proposition.

### Ballots and Tally Sheets.

§ 283. The city clerk shall provide the ballots in the number and in the form prescribed by the election law for the submission of questions to voters and tally sheets, returns and all other stationery and supplies necessary for the conduct of such election.

§ 284. Upon such ballots each separate object and the amount of the tax proposed to be levied or bonds proposed to be issued therefor shall be stated as separate propositions and separately voted upon.

### How and Where Elections Shall Be Conducted.

§ 285. Such election shall be conducted by three electors qualified to vote thereat appointed by the commission and the city clerk shall act as clerk thereof.

§ 286. The polls at such election shall be kept open during the hours and such election shall be conducted in accordance with the provisions of the election law so far as the same are applicable thereto, except that such election shall be held at one place for all of the qualified voters of the city. The electors conducting such election shall make a return of the vote cast thereat to the commission immediately upon the completion of such vote.

### Vote Canvassed by Commission.

§ 287. The commission shall meet on the next succeeding day after such election and canvass the result of such vote according to the returns made by the electors appointed to conduct the same and such result shall be declared by resolution.

### Bonds.

§ 288. Each proposition which shall receive the affirmative vote of a majority of the votes cast at such election shall be approved and the commission may thereupon raise such additional sum for each object so approved by taxation or by issue of bonds according to the provisions of the proposition so approved.

§ 289. All bonds issued with the approval of the taxable inhabitants as hereinbefore provided shall recite upon their face that the issue of the same has been duly approved at a special election of the taxable inhabitants of said city and such recital shall be conclusive evidence of the validity of all proceedings relating to such election and the canvass of the result thereof. All of the provisions

of the penal law relating to crimes against the elective franchise shall apply to questions submitted to tax payers as provided in this act so far as the same are applicable and the ballots cast upon such vote may be judicially investigated and any errors in the canvass of such vote corrected by writ of mandamus in the manner provided by the election law.

## ARTICLE XVII.

### BONDS AND CERTIFICATES OF INDEBTEDNESS.

#### Distinction Between Certificates of Indebtedness and Bonds.

§ 290. Every written obligation of said city consisting of a promise for the payment of money only and payable not more than one year after date shall be known as a certificate of indebtedness. Every obligation of said city consisting of a promise for the payment of money only and payable more than one year after date shall be known as a bond.

#### Interest, Bids and Signatures.

§ 291. Every certificate of indebtedness shall cease to bear interest after maturity. No certificate of indebtedness or bond shall be signed or issued except as authorized by this act and in pursuance of a resolution of the commission and the date of the adoption of the resolution shall be set forth therein. In the case of bonds such resolution shall fix a time when bids for the purchase thereof will be received by the commission.

§ 292. All bonds and certificates of indebtedness of said city shall be signed by the city manager and countersigned by the auditor and city clerk.

§ 293. All bonds authorized to be issued by any of the provisions of this act shall bear interest at not to exceed six per centum per annum and shall be sold for cash to the highest bidder at not less than the par value thereof after advertising for bids as hereinafter provided.

#### Notice for Bids.

§ 294. The auditor shall cause notice of the time and place when the commission will receive bids for the purchase of all such bonds to be published at least once each week for three successive weeks in the official paper and in such other newspapers and at such other times as the commission may prescribe. The commission may reject any or all such bids and readvertise the sale of such bonds.

#### Paid to Treasurer.

§ 295. The proceeds of the sale of all bonds and certificates of indebtedness shall be paid by the purchaser or purchasers directly to the treasurer and the treasurer shall immediately notify the auditor of the receipt thereof by him.

### Auditor's Records.

§ 296. The auditor shall keep a separate account of the proceeds of the sale of all bonds and certificates of indebtedness issued by said city and such proceeds shall be used only for the purposes for which the same were issued, except that in case the amount of such proceeds shall be more than sufficient for the purpose for which the same were issued, such excess shall, after the payment in full of the cost and expense of the improvement or other work for which said bonds or certificates were issued, be applied by the commission as a part of the sinking fund and used for the payment of other bonded indebtedness of said city. All taxes heretofore assessed for local improvements on account of which bonds or certificates of indebtedness are outstanding at the time this act takes effect, shall be applied to the payment of such bonds or certificates of indebtedness in the manner provided by the statutes pursuant to which such assessments were made and such bonds and certificates of indebtedness issued.

### Transfer of Funds.

§ 297. No part of the proceeds of the sale of any bonds or certificates of indebtedness shall be transferred to any appropriation provided for in the annual appropriation ordinance or used in any way for the payment of the ordinary operating expenses of the city, except that the proceeds of bonds or certificates of indebtedness issued in anticipation of the collection of taxes may be applied the same as such taxes would have been applied if collected and in such case, such taxes when collected shall be applied only to the payment of the bonds or certificates of indebtedness issued in anticipation of the collection thereof.

§ 298. Any officer, including the commissioners, or any employee of said city who shall take any part in the issue or sale of bonds or certificates of indebtedness or in the appropriation or disbursement of any of the proceeds of any such bonds or certificates of indebtedness in violation of the provisions of this article shall be guilty of a misdemeanor.

## ARTICLE XVIII.

### STREETS AND HIGHWAYS.

#### City Separate Highway District.

§ 305 The city shall constitute a separate highway district and the commission shall have the superintendence of all highways and bridges therein and within the limits thereof shall have all the powers of town boards and superintendents of highways of towns subject to the provisions of this act.

#### Powers of Commission in Regard to Streets, etc.

§ 306. The commission shall have power to discontinue, lay out, widen, narrow, straighten, open, alter or change the grade of

roads, avenues, streets, public parks or squares and lanes, crosswalks and sidewalks within the city, and for that purpose may receive, accept, acquire, take and appropriate any lands within the city including such as may have been acquired or are now used, held or owned for cemetery, railroad or other public uses or purposes. Such powers shall be exercised in the manner provided in this act.

### Grades of Streets.

§307. The grades heretofore established by the common council of the former city of Olean for the several streets and highways of said city shall be the established grades, respectively, of such streets and highways. Where no such grade has been established the existing grade shall be the established grade of such streets and highways.

### Hearings on Discontinuance, Changes, etc.

§ 308. Whenever the commission decides that any of the improvements specified in the last preceding section but one ought probably to be made, it shall fix a time when it will meet and consider objections to the making of such improvement and the taking of such land, if any is to be taken, and it shall thereupon give notice of the time and place of such hearing. The notice must describe the land proposed to be taken, the names of the owners thereof, when known, and if a street is to be narrowed or discontinued, or the established grade changed, the names of the owners of the adjoining lands, when known, and the general purpose of the improvement. Such notice must be published in the official paper at least once ten days before the time fixed for such hearing. A copy of such notice must also be served personally upon the owner or owners of such land, or in case of narrowing or discontinuing a street, or change of grade, upon such adjoining owners at least ten days before such meeting; but if such an owner is a nonresident of said city, such a notice enclosed in a securely closed postpaid wrapper may be deposited in the post office in the city of Olean at least ten days before such meeting, and directed to such owner at his last known place of residence.

### Hearings May Be Adjourned.

§ 309. Any person interested may be heard and introduce testimony before the commission upon such hearing and the commission may adjourn such hearing from time to time as it shall deem necessary.

### Failure to Appear Waives Objections.

§ 310. Any person or persons upon whom a notice of the time and place of such hearing shall have been served must appear at the time specified and make his objections in writing to said peti-

tion and to said notice as to its form or sufficiency or generally as to the proposed improvement, specifically pointing out the defects, omissions or objections thereto, or he shall be deemed to have waived the same.

### Resolution to Make Improvement.

§ 311. If after such hearing, the commission shall determine to make such improvement, it shall so declare by resolution to be entered in its minutes, describing the lands if any are to be taken, and thereupon it may proceed to take possession of such lands for such purposes. Within five days after such determination the commission shall cause a copy of such resolution to be published in the official paper. The commission shall determine by such resolution whether claims for damages on account of such improvement shall be allowed and paid or judicially inquired into either before commencing or after the completion of the proposed improvement.

### Owners Compensated for Damages.

§ 312. No street shall be discontinued or the established grade thereof changed without compensation to the owners of lands adjoining the same for the damages sustained thereby unless such owners consent thereto. Such damages shall be ascertained in the manner provided in this act.

### Damages.

§ 313. The owner of any lands so taken or appropriated or of any lands abutting upon any such proposed improvement claiming that he will sustain damage by reason of such improvement shall within sixty days after the publication of the resolution determining that such improvement be made, present a claim for such damage to the auditor. The auditor shall report all such claims to the commission. Such claim shall be in writing and shall set forth the amount of damages claimed with a general description of the property with respect to which it is claimed such damage will accrue. If such claim be not presented within said time no action or proceeding shall be maintained to recover such damages. This section shall apply only to such damages as will naturally and necessarily result from the making of the improvement and not to any damages arising out of the manner in which the construction of such improvement is carried out.

### Damage Assessed Before Commencing Improvement.

§ 314. If the commission decide that the damages shall be assessed before commencing the improvement, the city attorney shall make a written application to the county court for the appointment of three commissioners to ascertain and determine the amount of damages sustained by each person by whom a claim for damages has been filed as hereinbefore provided. Notice of such application

shall be personally served upon the person or persons who have filed such claims.

### Condemnation Law Applies—Damages and Benefits.

§ 315. All the provisions of the condemnation law in relation to the appointment of commissioners, their powers, duties, fees and expenses, shall be applicable to the appointment of and the powers, duties, fees and expenses of the commissioners appointed in pursuance of the provisions hereof; but it shall be the duty of said commissioners in assessing and ascertaining the damages sustained by property owners adjoining such street or highway to take into consideration and to ascertain the value of any benefits or advantages to such property in consequence of such improvement; and in all cases the value of such benefits or advantages shall be offset against and deducted from the damages; and no person or property owner shall be entitled to recover any damages who shall, in writing, request or assent that the said improvement be made.

§ 316. All damages so ascertained and determined together with the costs of such proceedings shall be a charge when allowable upon the city to be assessed and collected as hereinafter provided. But the commission may after the award of damages on account of such proposed improvement rescind the resolution to make the same, and in that event only the costs, if any, awarded the claimant and the fees and expenses of the commissioners shall be paid by said city.

§ 317. The commission may serve a written offer to compromise such damages upon the person or persons filing such claims before the application for the appointment of such commissioners, and in case such offer is not accepted, no costs shall be awarded in such proceeding to such person unless the amount of the damages awarded exceeds the amount of such offer.

### Damages Assessed After Completion of Improvement.

§ 318. When the commission determines to assess the damages after the completion of such improvement or in case a proceeding to determine such damages shall not have been commenced prior to the commencement of the work of constructing such improvement as hereinbefore provided, the person or persons presenting such claim for damages or the owner or owners of the lands claimed to have been damaged may within thirty days after the completion of the improvement apply for the appointment of commissioners to ascertain and determine the amount of such damages as hereinbefore provided and the commission may make and serve an offer to compromise as hereinbefore provided at any time before the appointment of such commissioners.

§ 319. When either party is entitled to costs in any such proceeding they shall be the same costs and at the same rates as prescribed in the condemnation law and the court may grant an additional allowance of costs as therein provided. An appeal may be

taken from the determination in such a proceeding in the same manner as provided by the condemnation law.

### Ordinances for Cost of Improvement.

§ 320. The commission shall have power by ordinance to provide for the payment of any part of the cost and expense of any such improvement, including all damages awarded on account of the construction thereof, out of the moneys raised for contingent expenses of the department of public service or for general purposes not included in the appropriation of a department in the annual appropriation ordinance or by levying and collecting special assessments upon abutting, adjacent or contiguous or other specially benefited property. The amount assessed against the property specially benefited to pay for such local improvements shall not exceed the amount of benefits accruing to such property.

## ARTICLE XIX.

### SPECIAL ASSESSMENTS.

#### Method of Assessment.

§ 325. Special assessments upon the property deemed benefited by any such public improvement shall be made by any one of the following methods: (a) By a percentage of the tax value of the property assessed; (b) In proportion to the benefits which may result from the improvements; (c) By the foot frontage of the property bounding or abutting upon the improvement.

#### Resolution.

§ 326. Whenever the commission determine to make a public improvement to be paid for in whole or in part by special assessment, the commission shall provide therefor by resolution and such resolution shall state the method of assessment and the mode of payment and the number of annual installments together with the total estimated cost of the improvement.

#### Auditor's Assessment Report.

§ 327. The city clerk shall deliver a certified copy of such resolution to the auditor who shall thereupon proceed to make an assessment report, in accordance with the method of assessment provided in the resolution, which report shall be filed with the commission and shall show the lots and lands assessed and the amount of the assessment as to each, together with the amount of benefit or damage to each lot or parcel of land to be assessed.

#### Notice.

§ 328. Upon filing such report the auditor shall cause notice to be published in the official paper at least once a week for two

successive weeks containing a statement of the character of the proposed improvement, the fact that such assessment report has been filed with the commission, the total estimate of the cost of the improvement and of the time and place when complaints and claims with reference thereto shall be heard before the board of revision of assessments. The auditor shall also serve a copy of such notice upon the owner of each lot or parcel of land assessed or upon the person in whose name the same is assessed for taxation by depositing such notice in the post office in said city of Olean, enclosed in a securely closed post-paid wrapper and addressed to such owner or person assessed at his last known place of residence.

### Board of Revision of Assessments.

§ 329. The city manager, city attorney and director of public service shall constitute the board of revision of assessments. It shall adopt rules providing for its meetings. The presence of all of the members shall be necessary to constitute a quorum. Such board shall hear all claims and objections as to the equity of such assessments as made in the assessment reports and shall have power, by a majority vote, to determine all such complaints and objections and as to each improvement to confirm, amend, equalize or adjust the assessment report in every detail and it shall report such assessment as so confirmed, amended, equalized or adjusted, to the commission.

### Ordinance for Assessment.

§ 330. Whenever the board of revision of assessments shall have made its final report to the commission as to any improvement, the commission, if it determines that the improvement shall proceed, shall pass an ordinance approving and confirming the assessment as reported by the board of revision of assessments and directing that the improvement proceed and shall cause such assessment to be delivered to the city clerk together with a warrant of the commission attached thereto, which shall be signed by the mayor and auditor directed to the clerk and authorizing and directing the collection of such taxes as prescribed by law.

### Description of Lands.

§ 331. In such ordinance it shall be sufficient to describe the lots and lands abutting upon the improvement and to be assessed therefor, as all the lots and lands bounding and abutting upon such improvement between and including the termini of the improvement; and in describing lands which do not abut, it shall be sufficient to describe the lots by their appropriate lot numbers, and lands by metes and bounds; and this rule of description shall apply in all proceedings in which lots and lands are to be charged with special assessments.

**Time of Payment Determined by Ordinance.**

§ 332. Such special assessments shall be payable at the time or times and in the manner specified in the ordinance confirming the same and notice shall be given and such assessments collected in the manner and with the fees and interest hereinafter provided.

**ARTICLE XX.****DEDICATIONS.****Director of Public Service Approves Sub-division.**

§ 340. No map subdividing any lands within said city or within one mile of any boundary thereof and upon which any lands are delineated as streets, alleys, ways, commons, parks or public grounds, shall be recorded in the office of the county clerk of the county in which such city is situated, unless the same shall be subscribed by the owner of such lands and the holder of any lien or liens thereon duly acknowledged, and unless the same shall be endorsed with the approval of the director of public service. The director of public service shall before approving any such map require a copy thereof, signed and acknowledged as hereinbefore provided, to be filed in his office.

**Requirements.**

§ 341. All such maps shall describe with certainty all lands delineated as streets or public grounds of any kind and before approving of any such map the director of public service shall require that all streets, alleys and ways shall be of the proper width and co-terminous with adjoining streets and alleys and that the same conform to any plan or regulation which the commission may prescribe for the development of the general system of streets and highways in said city.

§ 342 Any such map or plat when recorded shall thereupon be a sufficient conveyance to vest in the city the fee of the parcels of land designated or intended for streets, alleys, ways, commons or other public uses, to be held in the corporate name in trust to and for the uses and purposes in the instrument set forth, expressed, designated or intended.

**. Commission Accepts Dedication.**

§ 343. But no such street or alley shall be deemed a public street or alley or under the care or control of the commission until such dedication be accepted and confirmed by ordinance of the commission.

**Undedicated Streets not to be Improved by City.**

§ 344. No dedicated streets or alleys except those laid out on such a plat, bearing the approval of the director of public service as hereinbefore provided shall in any way be hereafter accepted nor shall any public funds be expended in the repair or improvement thereof as public streets or alleys of the city.

## ARTICLE XXI.

## PAVEMENTS AND SEWERS.

## Commission May Order Paving, Etc.

§ 350. In case the commission shall at any time deem it necessary that a sewer or drain should be constructed or that any highway should be macadamized or paved, curbed, guttered or flagged, it may, without petition therefor, upon a four-fifths vote of its members, declare by resolution the necessity for such improvement and its determination to have the same made. Such resolution shall particularly describe the highway in which such sewer is to be constructed, if in a highway, or which is to be so improved and the cost of such improvement as previously estimated by the director of public service.

## Remonstrance Petition.

§ 351. A period of sixty days shall elapse after the passage and publication of such resolution and before any further action shall be taken by the commission in the matter of such improvement. If within such period of sixty days a remonstrance against such improvement be filed with the commission signed by more than one-half of the owners owning more than one-half of the lineal foot frontage of property proposed to be assessed for such improvement, protesting against the making of the improvement, the commission shall not make such improvement at the expense of the property adjoining the highway in which such improvement is proposed to be constructed within one year after such remonstrance is so filed.

## Petition for Paving.

§ 352. There may be filed at any time with the commission a petition signed by more than one-half of the owners owning more than one-half of the property proposed to be assessed for any such improvement asking that the improvement be made.

## Hearing.

§ 353. Whenever any such remonstrance or petition is filed with the commission, it shall fix a time and place when it will meet to consider the same. The city clerk shall thereupon publish notice of such hearing at least once in the official paper, ten days prior to the time fixed therefor.

## Sufficiency of Petition.

§ 354. At the time and place so fixed and specified in such notice the commission shall meet and consider the sufficiency of such petition or remonstrance and may take testimony in relation to any matter affecting the sufficiency thereof.

§ 355. In determining the sufficiency of any such remonstrance or petition only the names and property of persons shall be con-

sidered who own real property to be taxed for such improvement and who are at the time of presenting such remonstrance or petition residents of said city.

§ 356. Any person claiming that such petition or remonstrance is not sufficient in form or in the number of persons signing the same or in the amount of property represented by such petition or remonstrance, shall appear at such hearing and file written objections, pointing out the specific objections to such petition or remonstrance and may be heard and introduce testimony thereon. Unless such objections shall be so made in writing they shall be deemed to be waived.

§ 357. The commission after such hearing shall determine whether such petition or remonstrance is sufficient and such determination shall be conclusive as to all persons who have not appeared and objected as hereinbefore provided.

#### Writ of Certiorari.

§ 358. Such determination of the commission may be reviewed by writ of certiorari granted to review the tax imposed on account of any improvement to which such petition or remonstrance relates as provided in this act.

§ 359. If after such hearing, the commission determine that any such petition requesting that such improvement be made is sufficient it shall proceed in the same manner as if the commission had determined to make such improvement as hereinbefore provided.

#### Sewers and Water Pipes Part of Improvement.

§ 360. The commission whenever it determines to make any such improvement may provide in the resolution therefor for the construction of service sewers and water service pipes leading from the main sewer and main water pipes in the street to be improved to the adjoining lots at such intervals as the commission may determine and the expense of constructing such service sewers and water service pipes shall be a part of the expense of such improvement and be assessed and levied and collected as a part thereof.

#### Street Intersection Construction Paid by City.

§ 361. The cost and expense of constructing that part of any such improvement within the lines of all intersecting streets shall not be assessed against the adjoining property but shall be paid out of the general funds of said city.

#### Part Paid by Railroads.

§ 362. The cost and expense of constructing such improvement except sewers upon that part of any such highway occupied by the tracks of any railroad or street railroad together with a space extending two feet beyond each side of said tracks shall be paid by

and assessed against the owner of such railroad or street railroad or the corporation operating the same.

### Part Paid by City.

§ 363. Either the whole of the remainder of the cost and expense of such improvement, after deducting the part thereof to be paid on account of intersecting streets and railroad tracks as hereinbefore provided, or such part thereof as the commission shall provide by resolution shall be paid out of the general funds of the city and such proportion shall not be less than one-fiftieth of such remainder.

### Part Paid by Property Owners.

§ 364. The cost and expense of such improvement after deducting the part thereof to be paid on account of intersecting streets and railroad tracks and the part thereof provided by the commission to be paid out of the general funds of the city shall be paid by and assessed to the owners of the real property lying along and adjoining the highway or the portion of the highway in which such improvement is constructed on each side thereof and each lineal foot of property shall pay its proportion of such amount and one lineal foot shall not be assessed a greater or less amount than another.

### Auditor's Assessment Report.

§ 365. Upon the completion of such improvement the auditor shall ascertain and determine the cost and expense of the construction thereof and shall thereupon proceed to make an assessment report, which report shall be filed with the commission and shall show the proportion of the cost and expense of such improvement assessed against the owner of any railroad or street railroad or corporation operating the same as hereinbefore provided, the proportion of such cost and expense to be paid out of the general funds of said city, both on account of intersecting streets and for such further portion thereof as the commission shall have determined, the proportion of such cost and expense to be paid by the real property lying along or adjoining the highway in which such improvement is constructed and the lots and lands assessed, the number of feet frontage of each lot, the name of the person assessed therefor and the amount assessed against the same and the number of installments in which such tax shall be paid.

### Notice.

§ 366. The auditor shall give notice of such assessment report and the same proceedings shall be had for the review and confirmation thereof as hereinbefore provided with reference to assessments for the laying out and opening of streets and highways.

### When Payable.

§ 367. Such taxes shall be payable in the same number of equal annual installments as the bonds or other obligations issued in anticipation thereof. All of the installments of any tax so levied and assessed may be paid at any time with the addition of the whole amount of interest which would accrue thereon if paid as such installments become due.

### Improvement Limit.

§ 368. In no case shall there be levied on any lot or parcel of land any assessments for any or all local improvements within a period of five years in excess of thirty-three and one-third per centum of the actual value thereof after the improvement is made.

§ 369. Assessments levied for the construction of main or outlet sewers shall not exceed the sum that, in the opinion of the commission, would be required to construct an ordinary street sewer or drain of sufficient capacity to drain or sewer the lots or lands to be assessed for such improvement, nor shall any lots or lands be assessed that do not need local drainage, or which are provided therewith.

### Temporary Loans.

§ 370. The commission may make temporary loans from time to time in the manner provided in this act as the work of such improvement progresses and before the completion thereof, to pay for the construction thereof, and any interest paid upon any such temporary loans shall be added to and be a part of the cost and expense of such improvement.

### Warrant to Authorize Clerk to Collect Taxes.

§ 371. Upon the completion and confirmation of the assessment for such improvement, the commission shall cause such roll, together with a warrant of the commission attached thereto and signed by the mayor and auditor to be delivered to the clerk. Such warrant shall be directed to the clerk and authorize and direct the collection of such taxes as prescribed by law.

### When Taxes May Be Paid.

§ 372. Any taxes levied upon such roll may be paid within thirty days after the delivery of the tax roll and warrant to the clerk as hereinbefore provided, without interest.

### Bonds.

§ 373. For the purpose of paying the cost and expense of such improvement the commission shall issue bonds of said city in anticipation of the collection of such taxes. Such bonds shall not be issued until after the expiration of thirty days after the delivery of such

tax roll to the clerk as hereinbefore provided, and shall be issued in an amount equal to the cost of such improvement less the amount of the taxes paid upon such tax roll during said period of thirty days. In case the proportion of such cost and expense directed to be paid out of the general funds of said city as provided by section three hundred sixty-three of this act amounts to one-half thereof or more no such bonds shall be issued until the same have been approved by vote of the taxpayers as provided in this act.

§ 374. Such bonds shall be payable within the period fixed by ordinance for the payment of the last installment of such taxes and not more than twenty years from the date thereof.

### Combining of Temporary Loans and Bonds.

§ 375. Whenever there is more than one such improvement in progress at the same time, the commission may combine the temporary loans or bonds made and issued on account of all such improvements in one certificate or one set of bonds. The proceeds of any such certificates or bonds so combined shall, however, be kept separate and separately applied the same as though separate certificates or sets of bonds had been made or issued. Moneys received from the sale of such certificates of indebtedness or bonds shall be used only in payment of the cost and expense of such improvements.

### Repairs Made by Railroads.

§ 376. All repairs to that part of any such improvement occupied by any such railroad or street railroad shall be made by the owner of such railroad, street railroad or the company operating the same under the supervision of the director of public service and in such manner as may be prescribed by the commission.

### Failure of Corporation to Repair.

§ 377. In case such owner or corporation shall fail to repair such part of said improvement as hereinbefore provided or to relay the same for thirty days after the service of notice requiring the same upon the owner of or corporation operating such railroad or street railroad, the commission may direct the same to be repaired or relaid by the director of public service and the cost and expense thereof shall be assessed to and paid by the owner of such railroad, street railroad or the corporation operating the same and collected by a warrant for the collection of such tax or the same may be recovered by action.

### Repairs Paid Out of General Funds.

§ 378. All repairs or reconstruction of any such improvement shall be paid out of the general funds of said city except that part thereof to be paid for and by any railroad, street railroad or corporation operating the same as hereinbefore provided.

## SIDEWALKS.

### Commission May Order Construction and Repairs.

§ 379. The commission may by resolution declare that certain specified sidewalks, curbings or gutters shall be constructed or repaired, graded or otherwise improved, and that the space between the outside limits of the highway and the curb or driveway shall be graded, ornamented with trees or otherwise improved and that shade trees within the lines of any street shall be trimmed, sprayed or otherwise cared for. Upon the passage of such a resolution the director of public service shall cause written notice of the passage thereof to be served upon the owner or occupant of each parcel of land abutting upon that part of the highway in which said repairs or improvements are so directed to be made, who shall be a resident of the city, in the manner provided by law for the service of summons in civil actions and shall file and preserve such return.

### Sufficient Notice.

§ 380. If the owner of any such property be not a resident of the city, service upon any person charged with the collection of rent, or the payment of taxes on such property or having the control thereof in any way shall have the like force and effect as though personal service were made upon the owner thereof. If it appear in any such return, however, that the owner is a non-resident and that neither such owner or agent could be found, one publication of a copy of the resolution in a daily newspaper of general circulation in the city shall be sufficient notice to such owner.

### Power of Director of Public Service.

§ 381. If such repairs or improvements be not made within fifteen days from the service of the notice provided for in the preceding section or the completion of the publication thereof, the director of public service may proceed to carry out the said repair or improvement at the expense of the owner as in the case of other improvements and all such expense shall be reported by the director of public service to the auditor.

### Auditor's Assessment Report.

§ 382. The auditor shall thereupon prepare an assessment report.

§ 383. Said assessment report shall be filed, notice of such assessment given and the same reviewed and confirmed and the taxes collected in the same manner as provided in this act in relation to local assessments for the expense of opening and laying out highways, except that the whole cost and expense of such repairs or improvements shall be assessed against and paid by the owner or owners of the lands abutting upon that part of the street or highway so repaired or improved.

§ 384. The commission may at any time borrow money and authorize the issuance of certificates of indebtedness in anticipation of the collection of such assessments in the manner provided in this act.

### Removal of Snow, Weeds, Etc.

§ 385. The commission shall have power to provide by ordinance for assessing against the abutting property the cost of removing from sidewalks all accumulations of snow and ice, and for assessing against the property the cost of cutting and removing therefrom noxious weeds and rubbish.

### SPRINKLING.

#### Commission May Order Sprinkling.

§ 386. The commission may by resolution declare that certain specified highways or portions of streets shall be sprinkled. Upon the passage of such a resolution the director of public service shall cause a copy of such resolution with a notice of the passage thereof signed by him to be published once a week for two successive weeks in the official paper.

#### Remonstrance Petition.

§ 387. If, within thirty days after the completion of such publication a remonstrance against such sprinkling signed by the persons and in the number provided in this act in relation to the construction of sewers and pavements be not filed, the commission shall cause such sprinkling to be done and the same proceedings shall be taken and the cost and expense thereof shall be assessed to and paid by the same persons and in the same proportions and such cost and expense shall be assessed, levied and collected in the same manner as provided in this act for the assessment and collection of the cost and expense of constructing sewers and pavements so far as the same are applicable thereto.

#### Clerk to Publish Notice of Tax Levied.

§ 388. Upon receiving the tax roll and warrant for the collection of any tax levied by special or local assessment as provided in this act, the clerk shall publish in the official paper a notice that he has received such warrant and tax roll and that such taxes or any installment or installments thereof may be paid to him within thirty days thereafter without fee and that upon the expiration of said thirty days such tax or the first installment of such tax as the case may be, will become delinquent. Such notice shall also state the periods prescribed by the ordinance confirming such assessment, when the subsequent installments if any, of such tax will become due and that each installment will become delinquent thirty days after the same becomes due. The clerk shall proceed to collect such taxes or installments accordingly.

§ 389. Such delinquent taxes or installments shall be subject to the same fees and penalties as delinquent taxes assessed on the tax roll for general city purposes.

#### Separate Accounts to be Kept.

§ 390. A separate account shall be kept of all moneys collected upon each such tax and assessment and the proceeds of all bonds and certificates of indebtedness issued in anticipation thereof and such moneys shall only be used for the payment of the cost and expense of such improvement and the retiring and payment of the bonds and certificates of indebtedness issued in anticipation thereof and the interest thereupon.

#### Local Improvement Funds and Bonds.

§ 391. The moneys collected from such taxes and assessments and the proceeds of such bonds and certificates of indebtedness shall be known as local improvement funds and the bonds or certificates of indebtedness shall be known as local improvement bonds or local certificates of indebtedness.

#### Misdemeanor.

§ 392. Any officer, including the commissioners, or any employee of said city who shall take part in the appropriation or disbursement of any moneys received from such taxes or assessments, bonds or certificates of indebtedness collected or issued on account of any such special assessment or local improvement in violation of the provisions of this article, shall be guilty of a misdemeanor.

### ARTICLE XXII.

#### MISCELLANEOUS PROVISIONS.

##### Public Work Begun Shall Be Continued Under This Act.

§ 400. All public work begun prior to the taking effect of this act shall be continued and perfected hereunder. Public improvements for which legislative steps shall have been taken under the laws in force at the time this act takes effect may be carried to completion in accordance with the provisions of such laws.

##### Taxes Levied to be Collected.

§ 401. All taxes levied or assessed prior to the taking effect of this act which have not been paid or any part of which has not become due, shall be collected and applied in the manner provided by the law under which such taxes were levied or assessed notwithstanding the repeal of such statute by this act. Such taxes, however, shall be collected by the officers and the moneys received thereon shall be deposited and accounted for as provided in this act.

**City Officials in Office at Time This Act Takes Effect.**

§ 402. All the officers of said city in office at the time this act takes effect except the mayor and aldermen shall continue in the performance of their duties until provision shall have been made in accordance with the provisions of this act for the performance or discontinuance of the duties of any such office. When such provision shall have been made the term of any such officer shall expire and the office be abolished.

**Notices.**

§ 403. The return or certificate of the auditor or city clerk as to the service or publication of any notice provided for in this act shall be presumptive evidence of such service at the time and in the manner specified in such return or certificate.

§ 404. In any case where it is provided in this act that notice shall be served personally, such notice may be served in the manner provided by law for the service of a summons in a civil action or if the person to be served is a resident of said city, such notice may be served by delivering a copy thereof to and leaving the same with a person of suitable age and discretion at the residence of such person.

**Who Are Property Owners.**

§ 405. In any case where it is provided in this act that a petition or remonstrance shall be signed by persons owning real property and such real property shall be owned by two or more persons jointly or as tenants in common, all of such tenants in common or joint tenants shall be deemed to be one person. The guardian of an infant, the committee of an incompetent, the trustees of a bankrupt or a trustee appointed by will or deed shall for the purpose of such petition or remonstrance, be considered the owner of any such real property owned by such infant or incompetent or by such trustee for the benefit of another. The board of education of a school district shall be deemed to be the owner of any such real property belonging to said school district. In computing the proportion of any such real property or the number of owners thereof, real property belonging to the city shall be included and said city shall be included as an owner.

**Writ of Certiorari.**

§ 406. A petition may be presented and a writ of certiorari may be granted in the manner provided by the tax law, to review any assessment provided for by this act either for general purposes or for special or local assessments and such tax and assessment and all the proceeding preliminary thereto including all proceedings relating to any improvement or work for which such assessment is made may be reviewed thereby in the same manner as provided by the tax law.

§ 407. No person shall be an incompetent judge, justice or juror by reason of his being an inhabitant of said city, or liable to taxation therein, in any action or proceeding in which the said city is a party interested.

#### Record of Transfer of Lands.

§ 408. The city clerk shall keep a record of all conveyances hereafter made of land in said city. Such record shall comprise the date and consideration of such transfer, the names of the grantors and grantees and a sufficient description of the premises conveyed so that the same may be identified therefrom. Every deed and will relating to real property in the city and every judicial decree establishing the right of inheritance to real property in the city shall, before the same be hereafter recorded in the office of the clerk of Cattaraugus county, be presented at the office of the clerk of the city of Olean and be thereupon stamped, countersigned and numbered in sequence by said clerk. Hereafter the clerk of Cattaraugus county, or any subordinate in the office of such clerk, who shall record any such deed, will or decree, unless the same has been duly stamped and countersigned as hereinbefore provided, shall be guilty of a misdemeanor. Said county clerk shall send to the clerk of the city of Olean each month, a list of the numbers of the deeds, wills, decrees and maps relating to real property, which have in that month been filed from the city of Olean.

#### School District Number One.

§ 409. Nothing in this act contained shall alter or change the territorial limits of union free school district number one of the town of Olean and such school district shall remain the same as though this act had not been passed and the board of education of such school district shall continue to levy and collect all school taxes in said district in the manner provided by law, and such school district shall continue subject to all the provisions of law applicable to common schools and shall exist and be controlled under the general school laws of the state in all respects as in towns.

#### City to be Considered Town for School Purposes.

§ 410. The assessment-roll of the city of Olean shall be considered a town assessment-roll in relation to all property therein for assessment and taxation for school purposes; and as regards such school district, the city of Olean shall be considered a town and the commission shall have the same authority as the supervisor of a town.

#### School Moneys.

§ 411. The moneys apportioned to said school district shall be paid directly by the treasurer of Cattaraugus county to the treasurer of said school district upon filing with the treasurer of said

county a certificate in writing signed by the president of the board of education of said school district and the clerk of said school district to the effect that the treasurer of said school district, naming him, has given the security required by law for the faithful discharge of his duties as such treasurer and is entitled to receive all moneys apportioned to said school district.

### Board of Supervisors Levy Town Tax.

§ 412. The board of supervisors shall levy upon said city the proportional share or amount of tax authorized by the laws of this state for the respective towns.

### City of Olean a Town of Cattaraugus County.

§ 413. The city of Olean, except as otherwise provided in this act, is hereby created and declared to be one of the towns of Cattaraugus county and all provisions of law not inconsistent with this act applicable to towns in said county shall apply to said city, and all acts required by law to be performed by the town boards or board of town auditors in towns in said county shall be performed by the commission.

## CHARTER ELECTION.

### Time of Special Election.

§ 414. Within ten days after this act shall become a law the common council of the city of Olean shall fix a time for a special election for the purpose of submitting to the electors of said city the approval of this act. Such election shall be held not less than thirty-five nor more than eighty days thereafter.

### Registration of Electors.

§ 415. The inspectors of election shall meet in the respective election districts of said city to revise the register of electors for their respective election districts as provided by the election law, on the third Friday and on the third Saturday preceding such election and such registers as so revised shall be the registers of voters for such election. The qualifications of an elector shall be the same as those provided by the election law.

### Notice of Election and Ballots.

§ 416. The city clerk shall publish notice of such election and provide ballots for such election in the number and in the form prescribed in the election law for the submission of questions to the voters. The question to be printed upon such ballot shall be "Shall the city of Olean reorganize under the Commission-Manager Plan?"

### Conduct of Election.

§ 417. Such election shall be conducted in the same manner as provided in this act for conducting general municipal elections.

§ 418. The inspectors of election shall canvass the result and make returns to the city clerk as provided by the election law and the common council shall on the day following such election meet and canvass the vote thereat.

§ 419. In case a majority of the votes entitled to be counted at such election are marked in the negative or in case such election result in a tie vote, this act shall be deemed disapproved, and shall not become operative.

§ 420. In case this act is not disapproved as provided in the last preceding section, the common council shall cause to be filed in the office of the secretary of state and in the office of the county clerk of Cattaraugus county respectively, copies of this act with a certificate signed by the mayor and city clerk under the seal of the city, stating that at such election this act was adopted by such electors.

### Five Commissioners Elected.

§ 421. At the same time that said election for the submission of the question of approving this act is held, five commissioners shall be elected as provided in this act. The term of office of the three commissioners who receive the largest number of votes at such election, shall expire on the last day of February, nineteen hundred and sixteen, and the term of office of the other two commissioners so elected shall expire on the last day of February, nineteen hundred and fifteen. In case of a tie the same shall be determined by lot. Nominations of candidates for commissioners shall be made and such election held in the same manner as provided in this act for municipal elections except that the result of such election of commissioners shall be canvassed by the common council.

§ 422. The laws enumerated in the schedule annexed are hereby repealed, provided this act becomes operative.

### Commissioners to Take Office October 1, 1914.

§ 423. In case this act is not disapproved, upon the submission of such question to the electors as hereinbefore provided, the commissioners so elected at the same time that such question is so submitted shall take office on the first day of October, nineteen hundred and fourteen.

§ 424. Sections four hundred fourteen to four hundred twenty-one of this act, inclusive, shall take effect immediately. All of the other sections of this act shall take effect October first, nineteen hundred and fourteen.

SCHEDULE OF LAWS REPEALED.

Laws 1893, Chapter 478.

Laws 1895, Chapter 695.

Laws 1898, Chapter 142.

Laws 1899, Chapter 339.

Laws 1901, Chapter 10.

Laws 1901, Chapter 672.

Laws 1904, Chapter 327.

Laws 1905, Chapter 226.

Laws 1906, Chapter 21.

Laws 1907, Chapter 162.

Laws 1907, Chapter 334.

Laws 1908, Chapter 369.

Laws 1909, Chapter 125.

Laws 1909, Chapter 126.

Laws 1909, Chapter 362.

# INDEX

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Numbers referred to in the index are numbers of sections.

	Sec.
Absences from Commission .....	87
Accounting—See Department of Finance.	
Administrative Departments .....	175-223
Advertisements .....	238-239
Amusements and Entertainments, Supervision of .....	197
Appointments	
Directors .....	171 and 206
Civil Service Commission .....	165
Appropriation Ordinances .....	106-107
Appropriations .....	246-254
City Manager's Estimate .....	246
Ordinances .....	247
Special .....	250
Unexpended balances .....	251
Assessments .....	1
Board of Revision .....	329
Assessment Roll .....	262-265
Assessments and Taxation .....	260-276
Assessor .....	260-264
Assessment Roll .....	262-265
Ten Mill Limit .....	<b>266</b>
Special .....	<b>267</b>
Limit not to apply to Improvements.....	267
Olean General Hospital .....	268
Auditor extends assessment .....	269
Taxes collected by City Clerk .....	270
Tax Notice .....	271
Delinquent Taxes relaid .....	272
Tax Lien on Property .....	273

Foreclosure on Lien .....	274
Tax Roll Evidence of Validity .....	275
Tax Lien on Railroad Companies .....	276
Questions submitted to Taxpayers .....	277-289
Tax for Public Building and Public Improvements.....	277
Time for submitting questions .....	278
Object .....	279
Payment and Interest .....	280
Notice of Election .....	281
Eligible Voters .....	282
Ballots and Tally Sheets .....	283
How and where Election shall be conducted .....	285-286
<b>Assessments, Special</b> .....	325-332
Methods of Assessment .....	325
Resolution .....	326
Auditor to make Assessment Report .....	327
Notice .....	328
Board of Revision of .....	329
Ordinance for Assessment .....	330
Description of Lands .....	331
Time of Payment .....	332
<b>Assessors</b> .....	260
How appointed .....	260
Duties .....	261-264
<b>Auditor</b> .....	208-215
Salary of .....	233
Assessment Roll duties .....	269
<b>Audits</b> .....	211
<b>Ballots</b> .....	60-61-62
Form of .....	60-61-62
Non-partisan .....	63
Tie between candidates .....	67 (g)
<b>Board of Revision of Assessments</b> .....	329
<b>Bonds and Certificates of Indebtedness</b> .....	290-298
Voted by taxpayers .....	288-289
Distinction between .....	290
Interest, Bids and Signatures .....	290-292-293
Notice for Bids .....	294
Paid to Treasurer .....	295
Auditors Record .....	296
Transfer of Funds .....	297
Misdemeanor in regard to .....	298
<b>Bonds of City Officials</b> .....	234

<b>Bonds</b> .....	373-374
Pavements and Sewers .....	373-374
<b>Boundaries of City</b> .....	4
<b>Boundaries, Ward</b> .....	5
<b>Bridges</b> .....	186
<b>Budget</b> .....	246-247
<b>Buildings</b> .....	186
<b>Candidates</b> .....	49
Acceptance of Candidacy .....	49
Nomination of .....	49
Certification of .....	59
Names on ballot .....	63
<b>Certificates of Indebtedness (See Bonds and Certificates     of Indebtedness)</b>	
<b>Certiorari</b> .....	358 and 406
Writ of .....	358 and 406
May issue to review assessment .....	406
<b>Charities and Corrections</b> .....	195
<b>Charter Election</b> .....	414-424
Time of Special Election .....	414
Registration of electors for .....	415
Notice of election and ballots .....	416
Conduct of election .....	417-420
Election of Commissioners .....	421
Commissioners take office .....	423
<b>Chief of Police</b> .....	200-201-204
City Manager's control over .....	171 (b)
Duties .....	200-201-204
Suspension of Subordinates by .....	204
<b>City Manager</b> .....	40 and 170
Power to Call Meetings of Commission .....	85
How Chosen .....	40 and 170
Powers and Duties .....	171
Power to Investigate .....	172
May act as Purchasing Agent .....	223
Salary of .....	233
To prepare an estimate .....	246
Member of Board of Revision .....	329
<b>City Clerk</b> .....	95
Certification of Candidates .....	59
Chosen by Commission .....	95
Powers and Duties .....	96

Tax Collector .....	97 and 207
Salary .....	98
Referendum Election Notice .....	125
Ballots for Referendum Election .....	127
Supplies for Referendum Election .....	128
Officer of Department of Finance .....	206
Salary of .....	233
Collects taxes .....	270-271
Tax Notice .....	271
<b>City Attorney</b> .....	178-183
Duties .....	178
Member of Board of Revision .....	329
<b>City Treasurer</b> .....	216-217-218
<b>Civil Service</b> .....	165
Exemptions from .....	165
<b>Civil Service Commission</b> .....	165
<b>Claims</b> .....	244
For Injury; Notice .....	244
For Injury; When and How Presented .....	245
<b>Commission</b> .....	40-41
Power to designate Justice of the Peace as Police Justice .....	22
Approve office of Police Justice .....	26
Fix salary of Police Justice .....	27
Appoint City Manager .....	40
Board of Canvassers .....	70
Vacancies .....	76
Power to investigate any department .....	81
Meetings of .....	85
Rules and Journal .....	85
Clerk and Other Employees .....	85
Quorum .....	86
Absences from Meetings .....	87
Ordinances .....	105-106
Appropriation Ordinances .....	107 and 248
Emergency Measure .....	109
Enforcement of Ordinances .....	112
Special Election .....	125
Appoints Civil Service Commission .....	165
Power in Regard to Water Works .....	190-191
To act as Board of Health .....	193
Appointment of Clerk, Auditor and Treasurer .....	206
Appointment of Purchasing Agent .....	219
Power relating to assessment roll .....	265
Board of Canvassers .....	287
Powers in Regard to Streets, etc. ....	306
May order paving .....	350
May make temporary loans .....	370

Commission Manager Government .....	40
Commissioners .....	49
Nomination of .....	49
Certification of Candidates .....	59
Form of Ballot for Election of .....	60
Term of Office .....	75 and 421
Qualifications .....	77
To be interested in no City contracts .....	157
Condemnation Law Applies .....	315
Constables .....	10
Elective Officer .....	10
Qualifications .....	11
Term of Office .....	12
Vacancies .....	13
Bond .....	14
Oath of Office .....	15
Resignation .....	16
Removal from Office .....	18
Powers, Duties, Compensation, etc. ....	32
Contracts .....	239
Commissioners, officers or employees shall not be interested in .....	157
Publication for Bids .....	239
In excess of \$500.00 .....	240
Void .....	241
Public Improvements by Contracts or direct labor.....	242
Alterations .....	243
Conveyances .....	408
Record of .....	408
Curbings .....	379
Dedications .....	340-444
Director of Public Service .....	340-344
Approved by Director of Public Service .....	340
Requirements .....	341-342
Commission must accept dedication .....	343
Streets not dedicated shall not be repaired or im- proved by City .....	344
Department of Finance .....	206-223
City Clerk .....	206-207
Auditor .....	208-215
Treasurer .....	216-217-218
Purchasing Agent .....	219-223
General Financial Provisions .....	230-245
See also Assessments and Taxation.	

<b>Department of Law</b> .....	178-185
City Attorney .....	178
Legal Opinion .....	179
Application for Injunction .....	180
Application in case of Violated Contracts .....	181
Application in case of Non-performance of Duties.....	182
Suit by Taxpayer .....	183
<b>Department of Public Safety</b> .....	199-205
Chief of Police .....	200-201
Police possess powers of Constables .....	201
Special Police .....	202
Fire Chief .....	203-204
Suspension or dismissal of employees .....	204
Relief Fund .....	205
<b>Department of Public Service</b> .....	186-192
Water Works .....	188-192
See also Director of Public Service.	
<b>Department of Public Welfare</b> .....	193-198
General Powers and Duties .....	193
Health Officer .....	194
Amusements and Entertainments .....	197
Licenses .....	197
<b>Departments and Divisions</b> .....	175
Change in .....	176
Directors of Departments .....	177
<b>Deputy City Clerk</b> .....	99
<b>Direct Labor permitted</b> .....	242
<b>Director of Public Service</b> .....	186
To make Improvements .....	186
Duties in Regard to Surveys, Maps, Plans, etc. ....	187
Control of Water Works .....	188
Member of Board of Revision .....	329
On Dedications .....	340-344
<b>Director of Public Welfare</b> .....	195-198
Duties .....	195
To Act as Overseer of Poor .....	196
Food Inspector and Sealer of Weights and Measures....	198
<b>Election, Charter</b> .....	414-424
<b>Elections, Municipal</b> .....	45-70
Time of Holding .....	45
Inspectors of .....	47
Places of Holding .....	48
Nominations .....	49
Nomination by petition .....	49
Form of Ballot .....	60

Rotation of Names .....	63
Supplies for .....	64
Tally Sheets .....	64
Conduct of .....	65
Assistance to Voters .....	65
Canvass of Vote .....	66-67-68-69
Board of Canvassers .....	70
Referendum .....	125
Referendum Notice of .....	126
<b>Elective Officers</b> .....	10
Police Justice, Justice of the Peace, Constables, Supervisors .....	10
Commissioners .....	40-75
<b>Emergency Measure</b> .....	109
Referendum, on... ..	137
<b>Eminent Domain</b> .....	311
<b>Estimate of City Expenditures</b> .....	246
<b>Expenditures, must be to credit of fund</b> .....	232
<b>Finance, Department of (see Department of Finance)</b>	
<b>Financial Provisions, General</b> .....	230-245
Investigations by Commissioner .....	81
Warrants for Payments .....	230-231
No Expenditure unless money is to credit of fund.....	232
Salary of City Employees .....	233
Bonds of City Officials .....	234
Check between Auditor and Treasurer .....	234
Fees .....	235
Publishing of Financial Statement .....	237
Contracts for Public Advertising .....	238
Alterations and Modifications of Contracts .....	242
Public Improvements by Contract or Direct Labor.....	242
Alterations in Contracts .....	243
Claims for injury .....	244-245
Appropriations .....	246-254
City Manager's Estimate .....	246
Transfer of Funds .....	251
Appropriation Ordinance .....	247
<b>Fire</b> .....	203-205
Fire Limits .....	1
Appointment and removal of officers .....	171 (b)
Additional Firemen .....	203
Suspension and dismissal of employees .....	204
Relief of firemen .....	205
<b>Fiscal Year</b> .....	246
<b>Form of Government</b> .....	40-41

<b>Franchises</b> .....	145-151
Not to be Passed as Emergency Measure .....	109
Granting of .....	145
Renewal of .....	146
No Exclusive Grant .....	147
Extensions .....	149
Consent of Property Owner .....	150
Regulation of Public Utility Fixtures .....	151
<b>Grades of Streets</b> .....	1 and 307
<b>Gutters (See Sidewalks)</b>	
<b>Health Officer</b> .....	194
<b>Highways (See Streets and Highways)</b>	
<b>Improvements</b> .....	242
Director of Public Service to make .....	186
By Contract or Direct Labor .....	242
Ten Mill Limit .....	267
Repair and reconstruction of .....	376-378
Sidewalks .....	379
See also Assessment Special.	
<b>Initiated Ordinances</b> .....	120-135
<b>Initiative and Referendum</b> .....	120-138
<b>Initiative Petition</b> .....	120
Certification of .....	120-125
Signatures .....	121
Number Required .....	120-123
Affidavit of Circulator .....	121
Requirements .....	121
Filing of .....	122
Action of Commission .....	123
<b>Investigation, by Commission</b> .....	81
By City Manager .....	172
<b>Justice of the Peace</b> .....	10
Elective Officer .....	10
Qualifications .....	11
Term of Office .....	12
Vacancies .....	13
Bond .....	14
Oath of Office .....	15
Resignation .....	16
Removal from Office .....	18
Powers, duties and compensation .....	31
<b>Law, Department of (See Department of Law)</b>	
<b>Licenses</b> .....	197

<b>Market Houses</b> .....	186
<b>Mayor</b> .....	41
How Chosen and Duties .....	78
President Pro Tempore to Act for .....	78-80
Power to call Meeting of Commission .....	85
<b>Misdemeanor</b> .....	111 and 159
Warrants for Money .....	232
In regard to Appropriation and Disbursement of Money .....	254
In regard to Bonds and Certificates of Indebtedness..	298
In regard to special tax and assessment for sprinkling	392
<b>Nominating Petitions</b> .....	49
Signatures, number required .....	49
Requirements .....	49
Form and filing Petition Paper .....	49
Acceptance of candidacy .....	49
<b>Nominations, for Commissioners</b> .....	49
<b>Non-Partisan Ballot</b> .....	63
<b>Oath of Office</b> .....	155
<b>Officers and Employees</b> .....	155
Oath of Office .....	155
Shall Hold no Other Public Office .....	156
Interest in Contract and Supplies .....	157
Free Tickets, Passes, etc. ....	158
Official Bond .....	234
<b>Olean General Hospital Funds</b> .....	268
<b>Ordinances</b> .....	105-112
Adoption of .....	88
Power of Commission in regard to .....	105
Publication of .....	105
Enactment .....	106
Amending of .....	108
Appropriation .....	107 and 247
Emergency Measure .....	109
Violation of .....	111
Enforcement of .....	112
Initiated .....	120
Conflicting .....	136
Ratification of Existing .....	138
Subject to Referendum .....	135
Assessment .....	330
<b>Parks</b> .....	195

<b>Pavements and Sewers</b> .....	350-378
Commission may order paving .....	350
Remonstrance Petition .....	351
Petition for Paving .....	352
Hearings on .....	353
Sufficiency of Petition .....	354-357
Writ of Certiorari .....	358
Sewers and Water Pipes part of Improvement.....	360
Street intersection construction paid by City .....	361
Part paid by Railroads .....	362
Part paid by City .....	363
Part paid by Property Owners .....	364
Auditors assessment report .....	365
Notice of Assessment Report .....	366
When taxes are payable .....	367
Improvement Limit .....	368-369
Temporary Loan .....	370
Warrant to authorize Clerk to collect taxes .....	371
When taxes may be paid .....	372
Bonds .....	373-374
Combining of Temporary Loans and Bonds .....	375
Repairs made by Railroads .....	376
Failure of Corporation to repair .....	377
Repairs paid out of General Fund .....	378
<b>Petitions, nominating</b> .....	49
Initiative and Referendum .....	120-135
<b>Playgrounds</b> .....	195
<b>Police Force</b>	
Appointment and removal of officers .....	171 (b)
Chief of Police .....	200-201
Special Policemen .....	202
Suspension and dismissal of employees .....	204
Relief of Policemen .....	205
<b>Police Justice</b> .....	10
Elective Officer .....	10
Qualifications .....	11
Term of Office .....	12
Vacancies .....	13
Bond .....	14
Oath of Office .....	15
Resignation .....	16
Removal from Office .....	18
Powers, Jurisdiction .....	20
Appeals, Judgment, etc. ....	21
Vacancies filled by Commission .....	22
Disposition of Criminals .....	23
Cost, Fees, Fines .....	24
Records .....	24

Oaths and Affidavits .....	25
Location of Office .....	26
Salary .....	27
Jurisdiction .....	29
Execution on Fines, Penalties, etc. ....	30
<b>Powers of the City</b> .....	1-3
Exercise of Powers .....	2
Transfer of Property, Rights, Powers, etc. ....	3
<b>Preferential Voting</b> .....	60
<b>Property Owners, who are</b> .....	405
Part paid by, for pavements and sewers .....	364
Consent not required for operation of Public Utilities	150
<b>Public Buildings</b> .....	186
<b>Public Highways</b> .....	186
<b>Public Improvements (See Improvements)</b>	
<b>Public Safety, Department of (See Department of Public Safety.)</b>	
<b>Public Service, Department of (See Department of Public Service.)</b>	
<b>Public Utilities</b> .....	1
City May Own and Operate .....	1
Franchises .....	145-151
<b>Public Welfare, Department of (See Department of Public Welfare.)</b>	
<b>Public Works and Improvements</b> .....	1
<b>Purchasing Agent</b> .....	219-223
<b>Qualification of Electors</b> .....	46
<b>Recreation</b> .....	195
<b>Referendum</b> .....	120-138
Initiated Ordinances Subject to .....	135
Conflicting Ordinances .....	136
Emergency Measures .....	137
<b>Revision of Assessments, Board of</b> .....	329
<b>Rotation of names on ballot</b> .....	63
<b>Salaries</b> .....	233
<b>School</b> .....	409
Limits to Union Free School District No. 1.....	409
City to be considered town for school purposes.....	410
School Moneys .....	411

Sewage Disposal .....	186
Sewers (See Pavements and Sewers).	
Sidewalks .....	1, 186 and 379-385
Commission may order construction and repairs.....	379
Sufficient notice in regard to .....	380
Power of Director of Public Service in regard to.....	381
Auditors Assessment Report .....	382-384
Removal of snow, weeds, etc. ....	385
Local Improvement funds and bonds .....	391
Signatures, nominating petitions .....	49
Initiative and Referendum .....	120
Sprinkling .....	386-392
Commission may order sprinkling .....	386
Remonstrance petitions .....	387
Clerk to publish notice of tax levy, collect tax, etc....	388-389
Separate accounts to be kept .....	390
Misdemeanor .....	392
Streets, Alleys, Lanes .....	186
Streets and Highways .....	305-320
Cleaning and Lighting, etc. ....	186
City Separate Highway District .....	305
Commission may determine, Lay Out, Change	
Grade of, etc. ....	306
Grades of Streets .....	307
Hearings on Discontinuance, Changes, etc. ....	308
Hearing may be Adjourned .....	309
Failure to Appear Waives Objections .....	310
Resolution to make Improvements .....	311
Not Discontinued without payment .....	312
Damages .....	313
Damages assessed before commencing improvement ...	314
Condemnation Law applies—Damages and	
Benefits .....	315-316-317
Damages assessed after completion of improvement..	318-319
Ordinances for cost of improvements .....	320
Supervisors .....	10
Elective Officers .....	10
Qualifications .....	11
Term of Office .....	12
Vacancies .....	13
Oath of Office .....	15
Resignation .....	16
Additional .....	17
Removal from Office .....	18
Powers, duties, compensation, etc. ....	19

<b>Taxes</b> .....	97
Collection of .....	97
Limit .....	266-267
May support Olean General Hospital .....	268
See also Assessment and Taxation.	
<b>Temporary Loans</b> .....	370
<b>Tie Vote</b> .....	67 (g) and 421
<b>Town Tax</b> .....	
Levied by Board of Supervisors upon City .....	412
<b>Transfer of funds</b> .....	251
<b>Treasurer</b> .....	
Powers and Duties .....	216-218
Salary of .....	233
<b>Vacancies</b> .....	
In Commission .....	76
In office of Mayor .....	79
In office of Constables, Justice of Peace, Police Justice, and Supervisors .....	13
<b>Vote canvassed by Commission</b> .....	287
<b>Voting, Preferential</b> .....	60
<b>Ward Boundaries</b> .....	5
<b>Water Works</b> .....	188-192
<b>Welfare Department</b> .....	193-198

## Citizens' Charter Committee

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B. M. MARCUS, Chairman.

RAYMOND B. GIBBS, Secretary

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### Executive Committee

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W. P. Hannifan

M. M. Holmes

D. L. Jewell

M. F. Mack

H. D. Sibley

Thos. E. Sullivan

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J. F. Andrews

B. J. Both

H. E. Bunce

F. B. Dunmore

E. W. Fitzgerald

W. F. Fuller

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E. M. Johnson

Geo. A. Larkin

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W. W. Murphy

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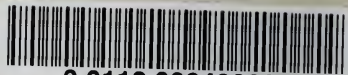
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